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Wednesday  
January 24, 1990

# federal register

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Wednesday  
January 24, 1990

# Federal Register

**Briefing on How To Use the Federal Register**  
For information on a briefing in Washington, DC, see  
announcement on the inside cover of this issue.





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## THE FEDERAL REGISTER

### WHAT IT IS AND HOW TO USE IT

- FOR:** Any person who uses the Federal Register and Code of Federal Regulations.
- WHO:** The Office of the Federal Register.
- WHAT:** Free public briefings (approximately 3 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
  2. The relationship between the Federal Register and Code of Federal Regulations.
  3. The important elements of typical Federal Register documents.
  4. An introduction to the finding aids of the FR/CFR system.
- WHY:** To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

### WASHINGTON, DC

- WHEN:** January 30, at 9:00 a.m.
- WHERE:** Office of the Federal Register,  
First Floor Conference Room,  
1100 L Street NW., Washington, DC.
- RESERVATIONS:** 202-523-5240.



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# Rules and Regulations

Federal Register

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## GENERAL ACCOUNTING OFFICE

### 4 CFR Part 25

#### Conduct in Building and on Grounds

**AGENCY:** General Accounting Office (GAO).

**ACTION:** Final rule.

**SUMMARY:** This rule establishes rules and regulations for conduct in the General Accounting Office Building (GAO Building) and on its grounds. Because custody and control of the GAO Building was transferred from the General Services Administration (GSA) to GAO, it was necessary to issue new rules and regulations since GSA rules and regulations would no longer apply.

**EFFECTIVE DATE:** January 24, 1990.

**FOR FURTHER INFORMATION CONTACT:** Mr. Gerald L. Berkin, Director, Office of Security and Safety, United States General Accounting Office, 441 G Street NW., Room 4844, Washington, DC 20548, (202) 275-4700.

**SUPPLEMENTARY INFORMATION:** Custody and control of the GAO Building was transferred from GSA to GAO by section 1, Public Law 100-545, 102 Stat. 2727 (31 U.S.C. 781). Because the building is no longer under GSA's control, the GSA regulations governing conduct in the GAO Building and on its grounds are no longer applicable. Authority to issue regulations is specifically granted to the Comptroller General by 31 U.S.C. 783(a). These regulations are based upon the analogous GSA regulations, 41 CFR subpart 101-20.3, both have been revised to be agency specific and to apply only to the GAO Building and its grounds. Penalties for violation of these regulations are prescribed by 31 U.S.C. 783(b), and are restated in these regulations.

### List of Subjects in 4 CFR Part 25

Safety, Crime, Federal buildings and facilities, Government property management, Security measures.

For the reasons set out in the preamble, title 4 of the Code of Federal Regulations, is amended by adding a new part 25 as follows:

### PART 25—CONDUCT IN THE GENERAL ACCOUNTING OFFICE BUILDING AND ON ITS GROUNDS

Sec.

- 25.1 Applicability and governing laws.
- 25.2 Inspection.
- 25.3 Admission to the GAO building.
- 25.4 Preservation of property.
- 25.5 Conformity with signs and directions.
- 25.6 Disturbances.
- 25.7 Gambling.
- 25.8 Alcoholic beverages and narcotics.
- 25.9 Soliciting, vending, and debt collection.
- 25.10 Posting and distributing materials.
- 25.11 Photographs for news, advertising, or commercial purposes.
- 25.12 Dogs and other animals.
- 25.13 Vehicular and pedestrian traffic.
- 25.14 Weapons and explosives.
- 25.15 Nondiscrimination.
- 25.16 Penalties.

Authority: 31 U.S.C. 783.

#### § 25.1 Applicability and governing laws.

These rules and regulations, and the laws of the United States and the District of Columbia, apply to the General Accounting Office (GAO) Building and its grounds, 441 G Street NW., in the District of Columbia, and to all persons while in the building or while entering or leaving it.

#### § 25.2 Inspection.

Packages, briefcases, and other containers as well as vehicles and their contents are subject to inspection while in or when being brought into, or when being removed from the GAO Building. A full search of a person may accompany an arrest or apprehension.

#### § 25.3 Admission to the GAO building.

A person may be admitted to the GAO Building after presentation of personal identification to conduct lawful business with GAO, its employees, or other tenants of the GAO Building and for any other purposes authorized by the Comptroller General or his designee. During normal working hours, the GAO Building shall be open to the public unless specific circumstances require it to be closed to the public to ensure the

orderly conduct of government business. Outside of normal working hours, the GAO Building shall be closed to the public unless the Comptroller General or his designee has approved the after-normal-working-hours use of the Building or portions thereof. When the Building, or a portion thereof, is closed to the public, admission will be restricted to authorized persons who shall register upon entry and exit, and shall, when requested, display government or other identifying credentials to the guards, security staff, or other authorized individuals. Failure to comply with such a request is a violation of these regulations.

#### § 25.4 Preservation of property.

The improper disposal of rubbish in the GAO Building or on its grounds, the willful destruction of or damage to the GAO Building or to its grounds or fixtures, the theft of property, the creation of any hazard to persons or things in the GAO Building or on its grounds, the throwing of articles of any kind from or at the GAO Building, or the climbing on any part of the GAO Building, is prohibited.

#### § 25.5 Conformity with signs and directions.

Persons in the GAO Building or on its grounds shall at all times comply with official signs of a prohibitory, regulatory, or directory nature and with the direction of the guards, security staff, or other authorized individuals.

#### § 25.6 Disturbances.

Loitering, disorderly conduct, or other conduct in the GAO Building or on its grounds which creates loud or unusual noise or a nuisance; which unreasonably obstructs the usual use of entrances, foyers, lobbies, corridors, offices, elevators, escalators, stairways, or parking areas; which otherwise impedes or disrupts the performance of official duties by government employees; or which prevents the general public from obtaining the administrative services provided in the GAO Building in a timely manner, is prohibited.

#### § 25.7 Gambling.

Participating in games for money or other personal property or operating gambling devices, conducting a lottery or pool, or selling or purchasing numbers tickets in the GAO Building or on its



grounds is prohibited. This prohibition shall not apply to the vending or exchange of chances by licensed blind operators of vending facilities for any lottery set forth in a law of the District of Columbia and conducted by the District of Columbia and authorized by section 2(a)(5) of the Randolph-Sheppard Act (20 U.S.C. 107, *et seq.*).

#### § 25.8 Alcoholic beverages and narcotics.

Operating a motor vehicle while in the GAO Building, its grounds or on its entry ramps by a person under the influence of alcoholic beverages, narcotic drugs, hallucinogens, marijuana, barbiturates, or amphetamines is prohibited. It is prohibited for anyone to enter or be in the GAO Building or to be on its grounds while under the influence of, or using, possessing, selling or distributing any narcotic drug, hallucinogen, marijuana, barbiturate, or amphetamine. This prohibition shall not apply in cases where the drug is being used as prescribed for a patient by a licensed physician. It is prohibited for anyone to enter the GAO Building or its grounds, or be on the premises while under the influence of alcoholic beverages. The use of alcoholic beverages in the GAO Building is prohibited except when specifically authorized by the Comptroller General or his designee for a particular event. The Comptroller General or his designee shall be advised of such events and shall inform the guards and other security staff of the time and precise locations of these events.

#### § 25.9 Soliciting, vending, and debt collection.

Soliciting alms, commercial or political soliciting, and vending of all kinds, displaying or distributing commercial advertising, or collecting private debts in the GAO Building is prohibited. This rule does not apply to:

(a) National or local drives for funds for welfare, health, or other purposes as authorized by the "Manual on Fund Raising Within the Federal Service," issued by the U.S. Office of Personnel Management;

(b) Concessions or personal notices posted by employees on authorized bulletin boards;

(c) Solicitation of labor organization membership or dues authorized by occupant agencies under the Civil Service Reform Act of 1978 (Pub. L. 95-454) or the General Accounting Office Personnel Act of 1980, Public Law 96-191 (31 U.S.C. sec. 732(e));

(d) Occupants of space leased for commercial purposes, or made available for cultural, educational, or recreational

use under section 1 of Public Law 100-545, October 28, 1988, 102 Stat. 2727, 2728 (31 U.S.C. 782).

#### § 25.10 Posting and distributing materials.

Posting or affixing materials, such as pamphlets, handbills or flyers, on bulletin boards or elsewhere in the GAO Building or on its grounds is prohibited, except as authorized by these rules and regulations or when such displays are conducted as part of authorized government activities. Distribution of materials, such as pamphlets, handbills or flyers is prohibited, unless conducted as part of authorized government activities. Any person or organization proposing to post or distribute materials in any part of the GAO Building or on its grounds shall first obtain a permit from the Comptroller General or his designee and shall conduct the posting or distribution in accordance with the guidelines provided by the Comptroller General or his designee. Failure to comply with those guidelines is a violation of these regulations.

#### § 25.11 Photographs for news, advertising, or commercial purposes.

Photographs may be taken in the GAO Building only with the approval or authorization of the Comptroller General or his designee.

#### § 25.12 Dogs and other animals.

Dogs and other animals, except seeing eye dogs or other guide dogs, shall not be brought into the GAO Building or on its grounds for other than official purposes.

#### § 25.13 Vehicular and pedestrian traffic.

(a) Drivers of all vehicles entering, leaving or while on GAO property or in the GAO Building shall drive in a careful and safe manner at all times and shall comply with all posted traffic signs and with the signals and directions of the guards, security staff, or other authorized individuals;

(b) The blocking of entrances, driveways, walks, loading platforms or fire hydrants on GAO property is prohibited; and

(c) Except in emergencies, parking on GAO property or in the GAO Building is not allowed without a permit. Parking in unauthorized locations or in locations reserved for other persons, or parking contrary to the direction of posted signs or instructions of guards is prohibited. Vehicles parked in violation of posted restrictions or warning signs shall be subject to removal at the owners' risk and expense.

(d) The Comptroller General or his designee may supplement this paragraph from time to time by issuing

and posting such specific traffic directives as may be required. When issued and posted, such directives shall have the same force and effect as if made a part hereof. Proof that a motor vehicle was parked in violation of these regulations or directives may be taken as prima facie evidence that the registered owner was responsible for the violation.

#### § 25.14 Weapons and explosives.

No person while entering or in the GAO Building or on its grounds shall carry or possess firearms, other dangerous or deadly weapons, explosives or items intended to be used to fabricate an explosive or incendiary device, either openly or concealed, except for official purposes.

#### § 25.15 Nondiscrimination.

There shall be no discrimination by segregation or otherwise against any person or persons because of race, creed, sex, color, or national origin in furnishing or by refusing to furnish the use of any facility of a public nature, including all services, privileges, accommodations and activities provided in the GAO Building.

#### § 25.16 Penalties.

Whoever shall be found guilty of violating any rule or regulation governing the GAO Building is subject to a fine of not more than \$500, or imprisonment for not more than 6 months, or both. Nothing in these rules and regulations shall be construed to abrogate any other Federal laws applicable to the GAO Building.

Charles A. Bowsher,

Comptroller General of the United States.

[FR Doc. 90-1479 Filed 1-23-90; 8:45 am]

BILLING CODE 1610-01-M

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 58

[DA-89-029]

#### Grading and Inspection, General Specifications for Approved Plants and Standards for Grades of Dairy Products; Revision of User Fees

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service is increasing the fees charged for services provided under the dairy grading program. The program is a



voluntary, user-fee program conducted under the authority of the Agricultural Marketing Act of 1946, as amended. This action increases the hourly rate to \$34.00 per hour for continuous resident services and \$38.00 per hour for nonresident services between the hours of 6 a.m. and 6 p.m. These fees represent a \$2.00 per hour increase in each case. The fee for nonresident services between the hours of 6 p.m. and 6 a.m. is \$41.80 per hour, representing an increase of \$2.20 per hour.

The purpose of the fee increases is to cover the increase in Federal salaries that becomes effective in January 1990; to cover increases in nonsalary inflationary costs; to cover an increase in the Government's costs for employee health benefits; and to generate additional revenues necessary to sustain the program.

**EFFECTIVE DATE:** January 28, 1990.

**FOR FURTHER INFORMATION CONTACT:** Lynn G. Boerger, USDA/AMS/Dairy Division, Dairy Grading Section, Room 2750-S, P.O. Box 96456, Washington, DC 20090-6456, (202) 382-9381.

**SUPPLEMENTARY INFORMATION:** This final rule has been reviewed under USDA guidelines implementing Executive Order 12291 and Departmental Regulation 1512-1 and has been classified a "non-major" rule under the criteria contained therein.

The final rule also has been reviewed in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and the Administrator, Agricultural Marketing Service, has determined that it will not have a significant economic impact on a substantial number of small entities. The changes will not significantly affect the cost per unit for grading and inspection services. The Agricultural Marketing Service estimates that overall this rule will yield an additional \$140,000 during fiscal year 1990. The Agency does not believe the increases will affect competition. Furthermore, the dairy grading program is a voluntary program.

The Agricultural Marketing Act of 1946, as amended, authorizes the Secretary of Agriculture to provide Federal dairy grading and inspection services that facilitate marketing and help consumers obtain the quality of dairy products they desire. The Act provides that reasonable fees be collected from the users of the services to cover as nearly as practicable the cost of maintaining the program.

Since the costs of the grading program are covered entirely by user fees, it is essential that fees be increased when program costs exceed revenues. Revenues have continued to decline.

Federal salaries will increase by 3.6 percent and the Government's costs for employee health benefits will increase 13.3 percent in January 1990. Also, nonsalary costs, including overhead costs related to the administration of the grading program, are projected to rise by 4.2 percent during FY 1990. The current fees, which became effective on April 17, 1989, will not cover these increased costs.

The operating costs for FY 1990 will exceed revenues by approximately \$140,000. Our estimate of revenue-producing hours from January 1, 1990, through the end of FY 1990 is 70,000 hours. Therefore, an increase of \$2.00 per hour should cover the increased costs. We are increasing the resident fee from \$32.00 to \$34.00 per hour, and the nonresident fee from \$36.00 to \$38.00 per hour between the hours of 6 a.m. and 6 p.m. and from \$39.60 to \$41.80 per hour between 6 p.m. and 6 a.m.

#### Program Changes Adopted in the Final Rule

This document makes the following changes in the regulations implementing the dairy inspection and grading program:

1. Increases the hourly fee for nonresident services from \$36.00 to \$38.00 for services performed between 6 a.m. and 6 p.m. and from \$39.60 to \$41.80 for services performed between 6 p.m. and 6 a.m.

The nonresident hourly rate is charged to users who request an inspector or grader for particular dates and amounts of time to perform specific grading and inspection activities. These users of nonresident services are charged for the amount of time required to perform the task and undertake related travel, plus travel costs.

2. Increases the hourly fee for continuous resident services from \$32.00 to \$34.00.

The resident hourly rate is charged to those who are using grading and inspection services performed by an inspector or grader assigned to a plant on a continuous, year-round, resident basis.

#### Comments

A rulemaking document proposing the changes discussed above was published in the Federal Register on November 17, 1989 (54 FR 47775). A 30-day comment period was provided so that interested persons could submit comments on the proposed changes. The Agency did not receive any comments on the proposed changes.

Pursuant to 5 U.S.C. 553, it is hereby found that good cause exists for not delaying the effective date of this action

until 30 days after publication of this final rule in the Federal Register. A revenue shortfall warrants putting the higher rates into effect as quickly as possible. An immediate increase in fees is essential for effective management and operation of the program, and to satisfy the requirements of the Agricultural Marketing Act of 1946. The necessity to implement the changes as soon as possible after publication of a final rule was discussed in the proposal. The provisions of this final rule are known to interested parties. A proposed rule setting forth the fee increases adopted herein was published in the Federal Register on November 17, 1989. No comments were received regarding the proposed rule.

#### List of Subjects in 7 CFR Part 58

Food grades and standards, Dairy products.

For the reasons set forth in the preamble, 7 CFR part 58 is amended by amending subpart A as follows:

#### PART 58—[AMENDED]

##### Subpart A—Regulations Governing the Inspection and Grading Services of Manufactured or Processed Dairy Products

1. The authority citation for part 58 continues to read as follows:

Authority: Secs. 202-208, 60 Stat. 1087, as amended; 7 U.S.C. 1621-1627, unless otherwise noted.

2. Section 58.43 is revised to read as follows:

##### § 58.43 Fees for inspection, grading, and sampling.

Except as otherwise provided in this section and §§ 58.38 through 58.46, charges shall be made for inspection, grading, and sampling service at the hourly rate of \$38.00 for service performed between 6 a.m. and 6 p.m., and \$41.80 for service performed between 6 p.m. and 6 a.m., for the time required to perform the service calculated to the nearest 15-minute period, including the time required for preparation of certificates and reports and the travel time of the inspector or grader in connection with the performance of the service. A minimum charge of one-half hour shall be made for service pursuant to each request or certificate issued.

3. Section 58.45 is revised to read as follows:

##### § 58.45 Fees for continuous resident service.

Irrespective of the fees and charges provided in §§ 58.39 and 58.43, charges



for the inspector(s) and grader(s) assigned to a continuous resident program shall be made at the rate of \$34.00 per hour for services performed during the assigned tour of duty. Charges for service performed in excess of the assigned tour of duty shall be made at a rate of 1½ times the rate stated in this section.

Signed at Washington, DC, on January 19, 1990.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 90-1616 Filed 1-23-90; 8:45 am]

BILLING CODE 3410-02-M

## 7 CFR Part 967

[FV-90-106FR]

### Celery Grown in Florida; Increase in Expenses

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This final rule authorizes increased expenditures under Marketing Order No. 967 for the 1988-89 and 1989-90 fiscal years established under the celery marketing order. The increases are necessary to meet previously unanticipated expenses. Funds to administer this program are derived from assessments on handlers.

**EFFECTIVE DATES:** August 1, 1988, through July 31, 1989 (1988-89 fiscal year) and August 1, 1989, through July 31, 1990 (1989-90 fiscal year).

**FOR FURTHER INFORMATION CONTACT:** Beatriz Rodriguez, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456; telephone: (202) 447-5120.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement and Order No. 967 (7 CFR part 967), both as amended, regulating the handling of celery grown in Florida. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this proposed action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately seven handlers of celery grown in Florida who are subject to regulation under the celery marketing order and approximately 13 producers of celery in the production area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than \$500,000, and small agricultural service firms are defined as those whose annual receipts are less than \$3,500,000. The majority of celery producers and handlers may be classified as small entities.

The celery marketing order requires that the assessment rate for a particular fiscal year shall apply to all assessable celery handled from the beginning of such year. An annual budget of expenses is prepared by the Florida Celery Committee (Committee) and submitted to the U.S. Department of Agriculture for approval. The members of the Committee are handlers and producers of celery. They are familiar with the Committee's needs and with the costs for goods, services, and personnel in their local areas and are thus in a position to formulate an appropriate budget. The budget is formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

The Committee conducted a telephone vote on August 24, 1989, to confirm a motion made at its May 24, 1989, meeting. The motion to increase expenses was unanimously approved by the telephone vote, thereby increasing expenses for the 1988-89 fiscal year by \$32,000, changing the total budget from \$126,000 to \$158,000. A final rule on the expenditures and assessment rate for the 1988-89 fiscal year was published in the August 5, 1988, issue of the *Federal Register* (53 FR 29443). The reason for the increase in expenses involves an over-expenditure of two line items in the budget which are travel by Committee personnel and promotion, merchandising and public relations. These two over-expenditures account for the total over-expenditure of \$32,000. Reserve funds will be used to cover the additional expenses.

In addition, the Committee held a telephone conference on October 30, 1989, and unanimously recommended increasing expenses for the 1989-90 fiscal year by \$44,000, changing the total budget from \$127,000 to \$171,000. A final rule on the expenditures and assessment rate for the 1989-90 fiscal year was published in the August 25, 1989, issue of the *Federal Register* (54 FR 35316). The reason for the increase in expenses involves an over-expenditure of several line items which are: \$25,000 in promotion, merchandising, and public relations; \$15,000 in administrative fees; \$1,200 in travel expenses by Committee members; \$2,000 in Committee staff travel expenses; \$200 in telephone expenses; \$200 in miscellaneous expenses and \$400 in the contingency reserve. These items account for the total over-expenditure of \$44,000. It is not necessary to propose an increase in the assessment rate for the 1989-90 fiscal year as adequate reserve funds are available to cover the additional expenses.

There are no additional costs on handlers as a result of this action. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

This action amends § 967.324 and § 967.325 and is based on Committee recommendations and other information. A proposed rule was published in the December 11, 1989, issue of the *Federal Register* (54 FR 50766). Comments on the proposed rule were invited from interested persons until January 10, 1990. No comments were received.

After consideration of the information and recommendations submitted by the Committee and other available information, it is found that this final rule will tend to effectuate the declared policy of the Act.

### List of Subject in 7 CFR Part 967

Celery, Florida, Marketing agreements.

For the reasons set forth in the preamble, 7 CFR part 967 is amended as follows:

### PART 967—CELERY GROWN IN FLORIDA

1. The authority citation for 7 CFR part 967 continues to read as follows:

**Authority:** Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

**Note.**—These sections will not appear in the annual Code of Federal Regulations.



**§ 967.324 [Amended]**

2. Section 967.324 is amended by changing "\$126,000" to "\$158,000."

**§ 967.325 [Amended]**

3. Section 967.325 is amended by changing "\$127,000" to "\$171,000."

Dated: January 19, 1990.

Charles R. Brader,

Director, Fruit and Vegetable Division.

[FR Doc. 90-1615 Filed 1-23-90; 8:45 am]

BILLING CODE 3410-02-M

**Commodity Credit Corporation****7 CFR Part 1430****Milk Price Support Program**

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

**SUMMARY:** This final rule implements a reduction of six and three-tenths (6.3) cents per hundredweight in the price received by producers for all milk produced within the forty-eight contiguous states of the continental United States and marketed for commercial use in the period of January 1, 1990, through January 31, 1990. The reduction must be made and collected by "responsible persons" (as defined in this part) and remitted to the Commodity Credit Corporation ("CCC") by February 28, 1990. The reduction is required by section 201(d)(2)(F) of the Agricultural Act of 1949 ("1949 Act") (7 U.S.C. 1446) in lieu of reductions in outlays under the price support program for milk as would otherwise be required by section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, also known as the "Gramm-Rudman-Hollings Act" ("GRH Act"). This final rule adopts, except for changes to the time period and amount of the reduction involved, the same procedures and regulations that applied to the price reduction program for milk marketed in calendar year 1988.

**EFFECTIVE DATE:** January 1, 1990.

**FOR FURTHER INFORMATION CONTACT:**

Joseph E. Chervenik, Fiscal Division, Agricultural Stabilization and Conservation Service, United States Department of Agriculture, P.O. Box 2415, Washington, DC 20013, (202) 447-3679. A final regulatory impact analysis of this regulation is available upon request.

**SUPPLEMENTARY INFORMATION:** This final rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and provisions of Departmental

Regulations 1512-1 and has been classified "nonmajor". It has been determined that the provisions of this rule will not result in an annual effect on the national economy of \$100 million or more.

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since the CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rule-making with respect to the subject matter of this rule.

It has been determined by an environmental evaluation that this action will have no significant adverse impact on the quality of the human environment. Therefore, neither an environmental assessment nor environmental impact statement is needed. Copies of the environmental evaluation are available upon request.

The title and number of the Federal Assistance Program to which this rule applies are: Commodity Loans and Purchases—10.051, as found in the Catalog of Federal Domestic Assistance.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Milk prices are supported under the provisions of section 201 of the 1949 Act (7 U.S.C. 1446), as amended, through CCC purchases of nonfat dry milk, cheese, and butter. Section 201(d)(2)(F) of the 1949 Act requires that, in lieu of making reductions in CCC milk price support program payments for a fiscal year pursuant to an order issued by the President under section 252 of the GRH Act, the Secretary of Agriculture must provide for a reduction in the price received by producers for milk produced within the area of the forty-eight contiguous states of the continental United States and marketed for commercial use.

Because a section 252 order is in effect for this fiscal year, this rule requires a reduction of six and three-tenths (6.3) cents per hundredweight for milk produced within the United States (as defined in the regulations) and marketed for commercial use during the period of January 1, 1990, through January 31, 1990. "United States" is defined in the regulations, in § 1430.341, to mean for this purpose the forty-eight contiguous states of the continental United States (i.e., all fifty states excluding Hawaii and Alaska) and the District of Columbia. It is estimated that the amount collected would equal the reductions in support outlays otherwise required under the Presidential order.

Spreading the collection of moneys over the remaining months of the fiscal year would be impractical because of the amount involved, inefficient, and onerous on interested parties. Use of the January marketing period will allow the reduction to be collected promptly over a normal marketing period. In addition, January milk prices tend to be higher than prices for the remaining months of the fiscal year. Because January marketings are occurring, prior public comment is not practical and would be contrary to the public interest.

Following, except for necessary changes, regulations that applied to the price reduction program for 1988 milk marketing, this rule provides that reduction must be made and remitted to the CCC by February 28, 1990, by "responsible persons" as defined in 7 CFR 1430.341(j). As under the program which applied to 1988 marketings, the responsible person is usually the person who pays the producer for the milk or is obligated to pay the producer. However, as with 1988 marketings, the producer is the responsible person where the producer markets milk of the producer's own production for commercial use to consumers either directly or through wholesale or retail outlets, or where the producer markets the milk to persons located outside the area defined by the forty-eight states of the continental United States and the District of Columbia.

**List of Subjects in 7 CFR Part 1430**

Milk, Agriculture, Price support programs, Dairy products.

**PART 1430—[AMENDED]**

Accordingly, a new subpart (§§ 1430.340-1430.351) is added to 7 CFR part 1430 as follows:

**Subpart—Regulations Governing Reductions in the Price of Milk Marketed by Producers, January 1, 1990, to January 31, 1990****Sec.**

- 1430.340 General statement.
- 1430.341 Definitions.
- 1430.342 Responsibility for administration of regulations.
- 1430.343 Required reductions and remittances.
- 1430.344 Availability of records and facilities.
- 1430.345 Adjustment of accounts of responsible persons.
- 1430.346 Charges and penalties.
- 1430.347 Scheme or device.
- 1430.348 Continuing obligations.
- 1430.349 Administrative review.
- 1430.350 Setoffs and withholdings.
- 1430.351 Paperwork Reduction Act assigned number.



**Subpart—Regulations Governing Reductions in the Price of Milk Marketed by Producers, January 1, 1990, to January 31, 1990**

Authority: 7 U.S.C. 1446; 15 U.S.C. 714b and 714c unless otherwise noted.

**§ 1430.340 General statement.**

(a) *Purpose*—This subpart implements the provisions of section 201(d)(2)(F) of the Agricultural Act of 1949, as amended, under which the Secretary of Agriculture is required to provide, in lieu of reductions in dairy program outlays that otherwise would be required under an order issued under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, for reductions in the price received by producers for all milk produced in the United States and marketed by producers for commercial use. The reduction shall be made and remitted to the Commodity Credit Corporation in the manner prescribed in these regulations.

(b) *Applicability*—The provisions of this subpart shall apply to all milk produced in the United States that is marketed for commercial use by producers during the period beginning on January 1, 1990, and ending January 31, 1990. The term "United States" shall have the meaning assigned in 7 CFR 1430.341.

**§ 1430.341 Definitions.**

For purpose of this subpart:

(a) "AMS" means the Department's Agricultural Marketing Service.

(b) "ASCS" means the Department's Agricultural Stabilization and Conservation Service.

(c) "CCC" means the Commodity Credit Corporation.

(d) "Dairy Division" means the Dairy Division of the AMS.

(e) "Department" means the United States Department of Agriculture.

(f) "Person" means any individual, partnership, corporation, association, or other business or governmental unit.

(g) "Producer" means any person who produced milk through the milking of cows.

(h) "Producer's Successor" means any person who receives or is entitled to receive payment for milk in lieu of payment to a producer.

(i) "Reduction" means that amount by which the price received for milk marketed for commercial use by producers is reduced in accordance with the provisions of this subpart.

(j) "Responsible Person" means:

(1) Any person who pays, or who is contractually or otherwise required to pay, a producer or producer's successor for milk marketed by a producer for

commercial use, except as otherwise prescribed in paragraph (j)(2) of this section. This includes a handler regulated under a Federal milk order to the extent of, but not limited to, payments for milk that are transmitted by the handler or a Market Administrator under such an order for transmittal by the Market Administrator to individual producers; and

(2) Any producer with respect to milk of the producer's own production who markets such milk for commercial use in the form of milk or milk products: (i) To consumers either directly or through retail or wholesale outlets, or (ii) to persons located outside of the United States.

(k) "United States" means the forty-eight contiguous States of the continental United States (i.e., all fifty states of the United States, excluding Hawaii and Alaska) and the District of Columbia.

(l) "United States Bank" means a bank organized under the laws of the United States, a state of the United States or the District of Columbia.

(m) "Vice President, CCC" means the Vice President of CCC, who is also the Administrator of AMS.

**§ 1430.342 Responsibility for administration of regulations.**

The AMS and its Dairy Division shall have the responsibility for administering the provisions of this subpart. Administrative subpoenas as may be determined to be necessary for the administration of this subpart may be issued by the Vice President, CCC.

**§ 1430.343 Required reductions and remittances.**

(a) Required reductions—A reduction of six and three-tenths (6.3) cents per hundredweight shall be made in the price received by producers for all milk produced in the United States and marketed by producers for commercial use during the period beginning on January 1, 1990, and ending January 31, 1990.

(b) Remittances—Each responsible person shall remit to CCC the funds represented by the reductions required by 1430.343(a) by February 28, 1990. For all milk marketed by producers outside the United States, the producer shall remit the funds represented by the reductions unless the person paying the producer for the milk has remitted the funds represented by the reductions to CCC by the due date for remittances specified in this paragraph. Remittances to CCC shall be made using negotiable instruments payable in United States currency, drawn on a United States bank and made payable to the

"Commodity Credit Corporation" or to "CCC". Remittances and reports required under this subpart shall be mailed to the location designated by the Dairy Division.

(c) Remittance Report—When remitting funds to CCC each responsible person shall file a report as prescribed by the Dairy Division which shall include:

(1) The identity of the responsible person, including such person's business address;

(2) The total pounds of milk to which the remittance applies; and

(3) Any additional information required by the Dairy Division.

(d) Application of Remittances—Funds received by CCC pursuant to this subpart shall be applied first to any outstanding penalty, then to late-payment and other charges, and then to the principal amount due.

(e) The funds remitted to CCC under this paragraph shall be considered to be included in the payments made to a producer of milk for purposes of the minimum price provisions of the Agricultural Adjustment Act (7 U.S.C. 603 *et seq.*), as reenacted and amended by the Agricultural Marketing Agreement Act of 1937.

**§ 1430.344 Availability of records and facilities.**

(a) Records to be maintained—Each responsible person shall maintain records in a manner that will demonstrate compliance with the provisions of this subpart.

(b) Availability of records and facilities—Each responsible person and producer shall make available to authorized representatives of CCC or the Department all records and facilities pertaining to such person's operations that are necessary to determine compliance with the provisions of this subpart.

(c) Retention of records—All records required under this subpart shall be retained by each responsible person and producer through January 31, 1993, or for such longer periods as the Dairy Division or CCC may require by notice to the responsible person or producer.

**§ 1430.345 Adjustment of accounts of responsible persons.**

Except as otherwise provided in this section, whenever the responsible person becomes aware through an audit or other means that an error in payment has been made, such responsible person must immediately notify CCC of the error and make any payment to the CCC that is due the CCC, including any late payment charges and other charges as



are provided for in this subpart. If the error is otherwise unknown to the responsible person until notice is given by the CCC, the underpayment plus late payment charges and other charges provided for in this subpart shall be made within 30 days after the notice is issued by the CCC unless the CCC specifies, in writing, a later date for payment. Overpayments to the CCC shall be refunded by the CCC. Nothing in this section shall reduce the liability to the CCC for late-payment and other charges for underpayment or nonpayment to the CCC.

#### § 1430.346 Charges and penalties.

(a) Charge for dishonored negotiable instruments—Each person who issues a negotiable instrument to CCC which is not honored because of insufficient funds or any other reason will be charged \$25. The amount of this charge shall be in addition to any and all other authorized charges and penalties.

(b) Late-Payment Charges—Any unpaid obligation due CCC under this subpart shall be increased by a late-payment charge. Such charge shall be assessed in accordance with the provisions of 7 CFR Part 1403 or successor regulations. The timeliness of payment to CCC shall be determined upon the applicable postmark date or the date of receipt by CCC if no postmark date is available or legible.

(c) Penalties—(1) Any responsible person who fails to make a reduction in the price of milk as required in this subpart or any person who fails to remit to CCC the funds required to be collected and remitted by this subpart shall be liable, in addition to any other amount due, for a marketing penalty computed at a rate equal to the support price for milk in effect at the time the failure occurs on the quantity of milk involved. The Vice President, CCC, or a designee, may reduce any such penalty in such amount as is determined equitable in any case in which it is determined that the failure was unintentional on the part of the person involved.

(2) In addition to the marketing penalty prescribed in paragraph (c)(1) of this section, any person who knowingly violates any of the provisions of this subpart shall be liable for a civil penalty in an amount which does not exceed \$1,000 for each violation.

(3) The Vice President, CCC or a designee, shall notify any person against whom a penalty is to be assessed of the intention to assess such penalty and provide such person with an opportunity for an administrative hearing.

#### § 1430.347 Scheme or device.

Any person who is determined by CCC to have knowingly adopted or participated in any scheme or device which tends to defeat, or has the effect of defeating, the implementation of, or purposes of, the provisions of this subpart, or the program provided for in this subpart, or who makes any fraudulent representation or misrepresents any fact affecting a determination under this subpart, shall be considered to have knowingly violated the provisions of this subpart. In such event, in addition to any penalties which are due, all amounts which would have been due to CCC for the reductions required by this subpart but which were not paid because of the prohibited activity shall be immediately payable by such person to CCC.

#### § 1430.348 Continuing obligations.

The obligations of any person that arise under this subpart shall continue in effect until final payment or other disposition agreed to by CCC even though the reductions provided for in this part may no longer be required.

#### § 1430.349 Administrative review.

Except with respect to the assessment of penalties under § 1430.346(c), any responsible person who is adversely affected by any determination of liability under the terms and conditions of this subpart may obtain a reconsideration of such determination by filing a request for reconsideration with the Director of the Dairy Division within 30 days of the date of notice of the determination. If, upon reconsideration by the Director, the responsible person is dissatisfied with the determination, such person may obtain a review of such determination and an informal hearing by filing an appeal with the Vice President, CCC. Such appeal must be filed within 15 days of the date of the redetermination by the Director. Such appeals to the Vice President, CCC, will be conducted in the same manner as administrative appeals which are conducted under 7 CFR part 780. The decision on such appeal constitute the final agency action in the matter.

#### § 1430.350 Setoffs and withholdings.

CCC may set off or withhold any amounts due CCC under this subpart in accordance with the provisions of 7 CFR Part 1408 or successor regulations.

#### § 1430.351 Paperwork Reduction Act assigned number.

The Office of Management and Budget has approved the information collection requirements contained in these

regulations under the provisions of 44 U.S.C. chapter 35 and OMB number 0560-0126 has been assigned.

Signed at Washington, DC, on January 17, 1990.

Keith D. Bjerke,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 90-1582 Filed 1-23-90 8:45 am]

BILLING CODE 3410-05-M

### Farmers Home Administration

#### 7 CFR Part 1980

#### Guaranteed Farmer Program Loan Regulations

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

**SUMMARY:** The Farmers Home Administration (FmHA) amends its guaranteed farmer program loan regulation to advise field offices to submit Form FmHA 1980-51, "Add, Change, or Delete Guaranteed Loan Record," to the Finance Office when a buydown agreement is to be cancelled prior to the expiration of the buydown period, and to advise the original lender to submit Form FmHA 1980-24, "Request Interest Rate Buydown/Subsidy Payment to Guaranteed Loan Lender," to the Finance Office when any buydown/subsidy is due the lender, before the substitution of a new eligible lender is completed.

**EFFECTIVE DATE:** January 24, 1990.

**FOR FURTHER INFORMATION CONTACT:** Bill Williams, Systems Accountant, Accounting Policy and Procedures section I, Farmers Home Administration, USDA, Room 3740, 1520 Market Street, St. Louis, Missouri 63103; Telephone: FTS 262-8024 or commercial 314-539-6024.

#### SUPPLEMENTARY INFORMATION:

##### Classification

This action has been reviewed under USDA procedures established in Departmental Regulation 1512-1, which implements Executive Order 12291, and has been determined to be exempt from those requirements because it involves only internal agency management. It is the policy of this Department to publish for comment rules relating to public property, loans, grants, benefits, or contracts, notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This action, however, is not published for proposed rulemaking since it only involves matters concerning internal agency



management, making publication for comment unnecessary and impractical.

#### Environmental Impact Statement

This document has been reviewed according to 7 CFR part 1940, subpart G, "Environmental Program." FmHA has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment and, in accordance with the National Environmental Policy Act of 1969, Public Law 91-190, an Environmental Impact Statement is not required.

#### Programs Affected

These changes affect the following FmHA programs as listed in the Catalog of Federal Domestic Assistance:

- 10.406—Farm Operating Loans
- 10.407—Farm Ownership Loans
- 10.416—Soil and Water Loans

#### Intergovernmental Consultation

1. For the reason set forth in the final rule related to Notice, 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983) and FmHA Instruction 1940-J, "Intergovernmental Review of Farmers Home Administration Programs and Activities" (December 23, 1983), Farm Operating loans and Farm Ownership loans, with the exception of nonfarm enterprise activities, are excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

2. The Soil and Water Loan Program is subject to the provisions of Executive Order 12372 and FmHA Instruction 1940-J.

#### List of Subjects in 7 CFR Part 1980

Agriculture, Loan programs—agriculture.

Accordingly, chapter XVIII, title 7, Code of Federal Regulations, is amended as follows:

#### PART 180—GENERAL

1. The authority citation for part 1980 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23 and 2.70.

#### Subpart B—Farmer Program Loans

2. Section 1980.110(b) is amended by revising the last sentence to read as follows:

§ 1980.110 Loan subsidy rates, claims, and payments (for EM actual loss loans only).

(b) \* \* \* Upon full payment of a note, assumption or transfer, FmHA purchase of a guaranteed loan, or a substitution of

lender, the lender will immediately prepare Form FmHA 1980-24 and mail the original to the County Supervisor.

3. Section 1980.122 is amended by inserting two new sentences at the end of the section to read as follows:

#### § 1980.122 Substitution of lenders.

\* \* \* Form FmHA 1980-24, "Request Interest Rate Buydown/Subsidy Payment to Guaranteed Loan Lender," must be completed by the original lender to claim any buydown/subsidy due the lender from the date of the last subsidy period through the date of the substitution of lenders. Once the substitution is consummated, FmHA cannot process any request for buydown/subsidy from the original lender.

4. In exhibit D of subpart B, paragraph VI B2 is amended in the second sentence by changing the phrase "Contract or Guarantee" to "Contract of Guarantee."

5. In exhibit D of subpart B, paragraph IX is amended by adding a new sentence at the end of the paragraph to read as follows:

#### Exhibit D—Interest Rate Buydown Program

IX \* \* \* In the event that the buydown agreement is to be cancelled prior to the expiration of the buydown period, the field office should submit Form FmHA 1980-51, "Add, Change, or Delete Guaranteed Loan Record," with item numbers 1, 2, 3, 4, 12, and 13 completed, to the Finance Office.

6. In exhibit E of subpart B, paragraph IX is amended by adding a new sentence at the end of the paragraph to read as follows:

#### Exhibit E—Demonstration Project for Purchase of Certain Farm Credit System Acquired Farmland

IX \* \* \* In the event that the buydown agreement is to be cancelled prior to the expiration of the buydown period, the field office should submit Form FmHA 1980-51, "Add, Change, or Delete Guaranteed Loan Record," with item numbers 1, 2, 3, 4, 12, and 13 completed, to the Finance Office. Paragraph IX of exhibit E of subpart B of part 1980 is amended by inserting a new sentence at the end of the paragraph:

Dated: October 31, 1989.

Neal Sox Johnson,  
Acting Administrator, Farmers Home  
Administration.

[FR Doc. 90-1584 Filed 1-23-90; 8:45 am]

BILLING CODE 3410-07-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Parts 21 and 25

[Docket No. NM-41; Special Conditions No. 25-ANM-32]

#### Special Conditions; Beech Aircraft Corporation Model 400A Airplane, High Altitude Operation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

**SUMMARY:** These special conditions are issued for the Beech Aircraft Corporation (Beech) Model 400A airplane. This airplane will have an unusually high operating altitude (45,000 feet) when compared to the state of technology envisioned in the airworthiness standards of part 25 of the Federal Aviation Regulations (FAR). These special conditions contain the additional safety standards which the Administrator considers necessary to establish a level of safety that is equivalent to that established by the airworthiness standards of part 25.

**EFFECTIVE DATE:** February 22, 1990.

**FOR FURTHER INFORMATION CONTACT:** Bob McCracken, telephone (206) 431-2118, Flight Test and Systems Branch, ANM-111, Transport Airplane Directorate, Aircraft Certification Service, FAA, 17900 Pacific Highway South, C-68966, Seattle, Washington, 98168.

#### SUPPLEMENTARY INFORMATION:

##### Background

On February 22, 1988, Beech Aircraft Corporation applied for an amendment to their Type Certificate No. A16SW to include a 45,000-foot certification ceiling, and miscellaneous product improvements.

Under the provisions of § 21.101(a) of the FAR, the Beech Aircraft Corporation must show that the Beech Model 400, as changed, continues to meet the applicable provisions incorporated by reference in Type Certificate No. A16SW, or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the "original type certification basis." The regulations incorporated by reference in Type Certificate No. A16SW are as follows:

Part 25 of the Federal Aviation Regulations effective February 1, 1965, as amended by Amendments 25-1 through 25-40, plus §§ 25.1351(d), 25.1353(c)(5) and 25.1450 of Amendment



25-41. Sections 25.29, 25.255 and 25.1353(c)(6) of Amendment 25-42 and § 25.361(b) of Amendment 25-46. Part 36 of the Federal Aviation Regulations effective December 1, 1969, as amended by Amendments 36-1 through the amendment effective on the date of type certification; SFAR 27 effective February 1, 1974, as amended by Amendment 27-1 through the amendment effective on the date of type certification.

**Equivalent Safety Items:**

- (1) Out-of-trim characteristics, § 25.255.
- (2) Pilot compartment view, § 25.773(b)(2).
- (3) Serial Number RJ-39 and after, passenger compartment door, § 25.813(e).

Beech has indicated that the passenger oxygen system will be changed to a gaseous system in order to accommodate certification to 45,000 feet. This modification to the oxygen system requires the replacement of § 25.1450 of Amendment 25-41 with § 25.1447 of Amendment 25-41 in the certification basis.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25 as amended) do not contain adequate or appropriate safety standards for the Model 400A because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16 to establish a level of safety equivalent to that established in the regulations.

Special conditions, as appropriate, are issued in accordance with § 11.49 of the FAR after public notice, as required by §§ 11.28 and 11.29(b), and become part of the type certification basis in accordance with § 21.17(a)(2).

**Novel or Unusual Design Feature**

The Beech Model 400A will incorporate an unusual design feature in that it will be certified to operate up to an altitude of 45,000 feet.

The FAA considers certification of transport category airplanes for operation at altitudes greater than 41,000 feet to be a novel or unusual feature because current part 25 does not contain standards to ensure the same level of safety as that provided during operation at lower altitudes. Special conditions have, therefore, been adopted to provide adequate standards for transport category airplanes previously approved for operation at these high altitudes, including certain Learjet models, the Boeing Model 747, Dassault-Breguet Falcon 900, Canadair Model 600, Cessna Model 650, Israel Aircraft Industries Model 1125 and Cessna Model 560. The special conditions for the Model 1125 are considered the most applicable to

the Beech Model 400A and its proposed operation. They are, therefore, used as the basis for the special conditions described below.

Damage tolerance methods were proposed to be used to assure pressure vessel integrity while operating at the higher altitudes, in lieu of the ½ bay crack requirement used in some previous special conditions. Crack growth data are used to prescribe an inspection program which should detect cracks before an opening in the pressure vessel would allow rapid depressurization. Initial crack sizes for detection are determined under § 25.571, Amendment 25-54. The cabin altitude after failure may not exceed the cabin altitude/time curve limits shown in Figures 3 and 4.

Continuous flow passenger oxygen equipment is certificated for use up to 40,000 feet; however, for rapid decompressions above 34,000 feet, reverse diffusion leads to low oxygen partial pressures in the lungs, to the extent that a small percentage of passengers may lose useful consciousness at 35,000 feet. The percentage increases to an estimated 60 percent at 40,000 feet, even with the use of the continuous flow system. To prevent permanent, physiological damage, the cabin altitude must not exceed 25,000 feet for more than 2 minutes. The maximum peak cabin altitude of 40,000 feet is consistent with the standards established for previous certification programs. In addition, at these altitudes the other aspects of decompression sickness have a significant, detrimental effect on pilot performance (for example, a pilot can be incapacitated by internal expanding gases).

Decompression above the 37,000-foot limit of Figure 4 approaches the physiological limits of the average person; therefore, every effort must be made to provide the pilot with adequate oxygen equipment to withstand the severe decompressions. Reducing the time interval between pressurization failure and the time the pilot receives oxygen will provide a safety margin against being incapacitated and can be accomplished by the use of mask-mounted regulators. The special condition therefore requires pressure-demand masks with mask-mounted regulators for the flightcrew. This combination of equipment will provide the best practical protection for the failures covered by the special conditions and for improbable failures not covered by the special conditions, provided the cabin altitude is limited.

**Discussion of Comments**

Notice of Proposed Special Condition No. SC-89-4-NM for the Beech Aircraft Corporation Model 400A airplane was published in the *Federal Register* on September 29, 1989 (54 FR 40118). The sole commenter was the applicant, Beech Aircraft Corporation.

The commenter notes that certification of aircraft to altitudes above 41,000 feet can hardly be considered novel or unusual considering the number of different aircraft that have been certified above that altitude during the last 20 years. The commenter further states that there have been sufficient time and experience to critically review these special conditions and to promulgate an official rules change to part 25 which would address the appropriate items. The FAA concurs that requirements such as those contained in these special conditions should be made generally applicable, and has initiated rulemaking to adopt such requirements. A Notice of Proposed Rulemaking, entitled "Standard for Approval for High Altitude Operation of Subsonic Transport Airplanes", was published in the *Federal Register* on November 22, 1989 (54 FR 48538). However, that rulemaking would not affect the Model 400A as its incorporation will postdate the date of application for this new model. In the interim, these special conditions are necessary to assure that a level of safety equivalent to that established by the airworthiness standards of part 25 is provided.

The commenter also states that items contained within the special conditions that have requirements based on cabin altitudes or aircraft altitudes are not consistent with an increase above 41,000 feet. The commenter suggests that these items should be either included in the part 25 rulemaking for all appropriate altitudes or not included at all. Three examples are provided. In the first of these, it is noted that Paragraph 2.c. of the special conditions requires the cabin cooling system to be designed to meet specified conditions during flight above 15,000 feet. The second paragraph used as an example is Paragraph 2.d.1., which requires the cabin to meet the cabin altitude-time history defined in Figure 3 after certain failures. This has an overall limit of 30,000 feet for cabin altitude. In the third example, Paragraph 2.d.2. refers to Figure 4, which imposes an overall cabin altitude limit of 40,000 feet. The commenter states that, if these are valid requirements, it should not matter if the airplane is going to continue 41,000 feet or to go to a higher altitude (in this



case, 45,000 feet). The FAA agrees with this comment. The proposed part 25 rulemaking regarding high altitude operation discussed earlier does not contain wording which differentiates between airplanes certificated to altitudes up to 51,000 feet and those with lower maximum certificated operating altitudes.

#### Conclusion

This action affects only certain novel or unusual design features on one model series of airplanes. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on the airplane.

#### List of Subjects in 14 CFR Parts 21 and 25

Air transportation, Aircraft, Aviation safety, Safety.

#### The Special Conditions

Accordingly, the following special conditions are issued as part of the type certification basis for the Beech Aircraft Corporation Model 400A airplane:

1. The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 1344, 1348(c), 1352, 1354(a), 1355, 1421 through 1431, 1502, 1651(b)(2), 42 U.S.C. 185f-10, 4321 et seq.; E.O. 11514; 49 U.S.C. 106(g) (Rev. Pub. L. 97-449, January 12, 1983).

##### 2. Operation to 45,000 feet:

##### a. Pressure Vessel Integrity.

1. The maximum extent of failure and pressure vessel opening that can be demonstrated to comply with Paragraph d. (Pressurization) of this special condition must be determined. It must be demonstrated by crack propagation and damage tolerance analysis supported by testing that a larger opening or a more severe failure than demonstrated will not occur in normal operations.

2. Inspection schedules and procedures must be established to assure that cracks and normal fuselage leak rates will not deteriorate to the extent that an unsafe condition could exist during normal operation.

b. *Ventilation.* In lieu of the requirements of § 25.831(a), the ventilation system must be designed to provide a sufficient amount of uncontaminated air to enable the crewmembers to perform their duties without undue discomfort or fatigue, and to provide reasonable passenger comfort during normal operating conditions and also in the event of any probable failure of any system which could adversely affect the cabin ventilating air. For normal operations, crewmembers and passengers must be provided with at least 10 cubic feet of fresh air per minute per person, or the equivalent in filtered, recirculated air based on the volume and composition at the corresponding cabin pressure altitude of not more than 8,000 feet.

c. *Air Conditioning.* In addition to the requirements of § 25.831, paragraphs (b) through (e), the cabin cooling system must be designed to meet the following conditions during flight above 15,000 feet mean sea level (MSL):

1. After any probable failure, the cabin temperature-time history may not exceed the values shown in Figure 1.

2. After any improbable failure, the cabin temperature-time history may not exceed the values shown in Figure 2.

d. *Pressurization.* In addition to the requirements of § 25.841, the following apply:

1. The pressurization system, which includes for this purpose bleed air, air conditioning, and pressure control systems, must prevent the cabin altitude from exceeding the cabin altitude-time history shown in Figure 3 after each of the following:

(a) Any probable malfunction or failure of the pressurization system. The existence of undetected, latent malfunctions or failures in conjunction with probable failures must be considered.

(b) Any single failure in the pressurization system combined with the occurrence of a leak through an opening having an effective area 2.0 times the effective area which

produces the maximum permissible fuselage leak rate approved for normal operation, whichever produces a more severe leak.

2. The cabin altitude-time history may not exceed that shown in Figure 4 after each of the following:

(a) The maximum pressure vessel opening resulting from an initially detectable crack propagating for a period encompassing four normal inspection intervals. Mid-panel cracks and cracks through skin-stringer and skin-frame combinations must be considered.

(b) The pressure vessel opening or duct failure resulting from probable damage (failure effect) while under maximum operating cabin pressure differential due to a tire burst, engine rotor burst, loss of antennas or stall warning vanes, or any probable equipment failure (bleed air, pressure control, air conditioning, electrical source(s), etc.) that affects pressurization.

(c) Complete loss of thrust from all engines.

3. In showing compliance with paragraphs 2.d.1. and 2.d.2. of these special conditions (Pressurization), it may be assumed that an emergency descent is made by approved emergency procedure. A 17-second crew recognition and reaction time must be applied between cabin altitude warning and the initiation of an emergency descent.

Note: For the flight evaluation of the rapid descent, the test article must have the cabin volume representative of what is expected to be normal, such that Beech must reduce the total cabin volume by that which would be occupied by the furnishings and total number of people.

##### e. Oxygen Equipment and Supply.

1. A continuous flow oxygen system must be provided for the passengers.

2. A quick-donning pressure-demand mask with mask-mounted regulator must be provided for each pilot. Quick-donning from the stowed position must be demonstrated to show that the mask can be withdrawn from stowage and donned within 5 seconds.

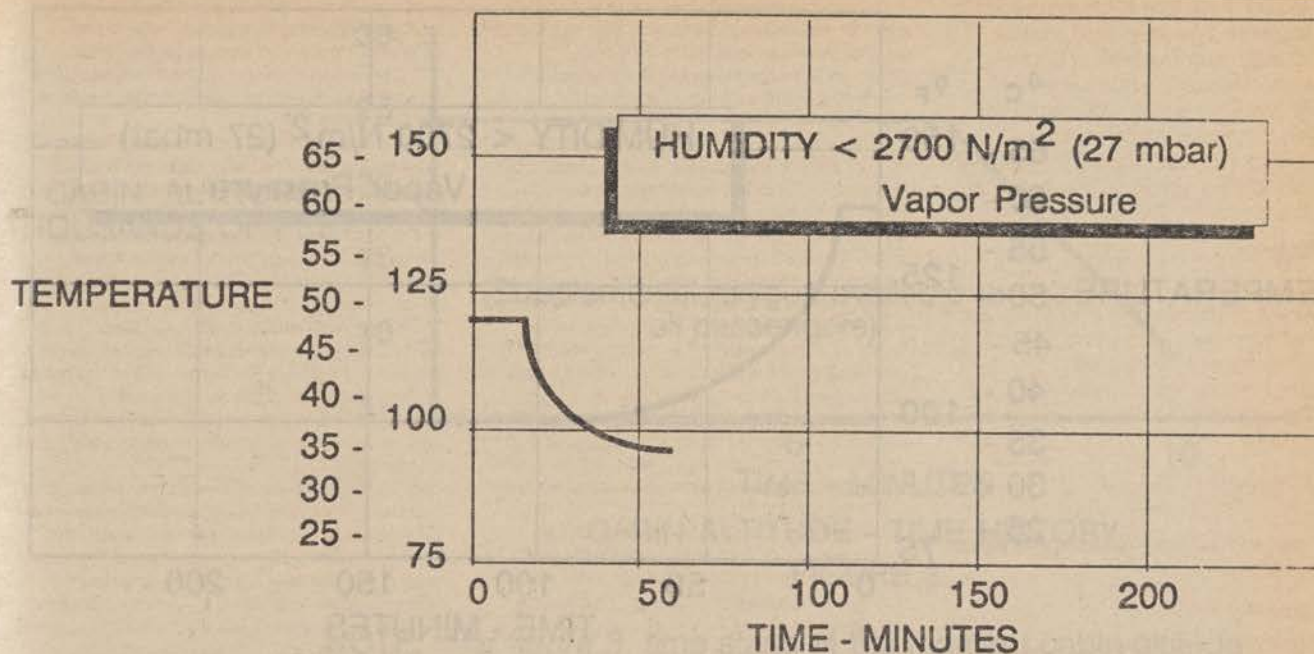
Issued in Seattle, Washington, on January 4, 1990.

Leroy A. Keith,

Manager, Transport Airplane Directorate.

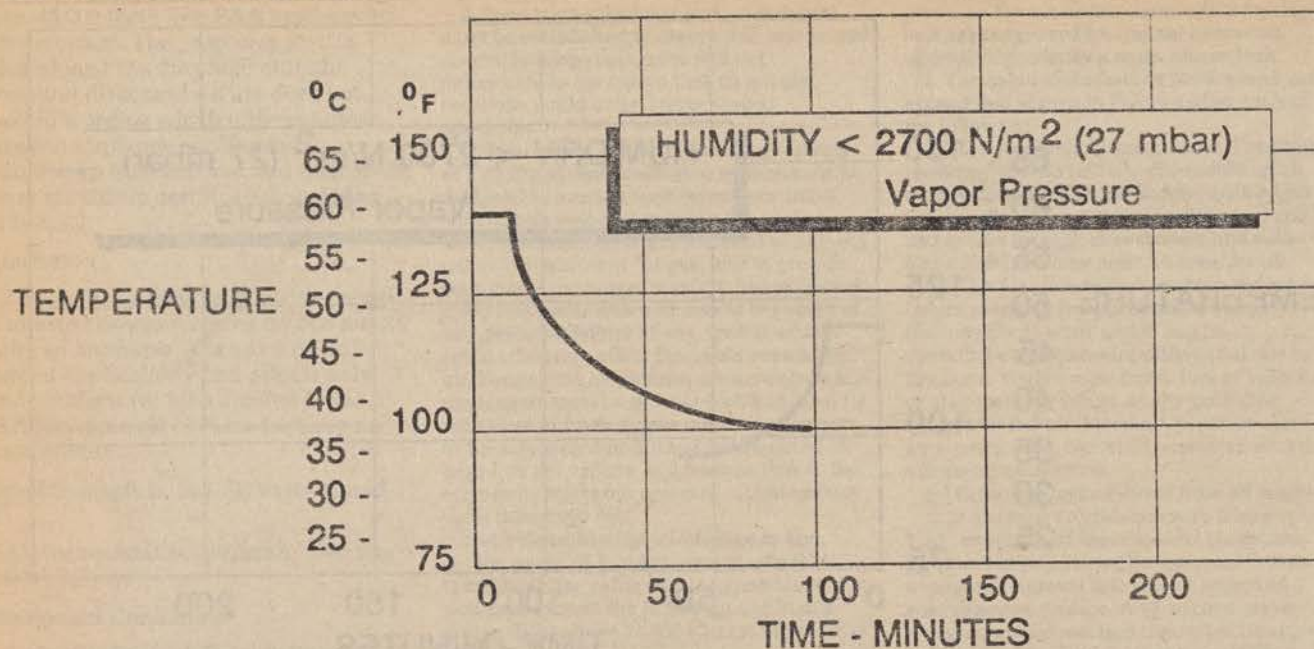
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TIME - TEMPERATURE RELATIONSHIP

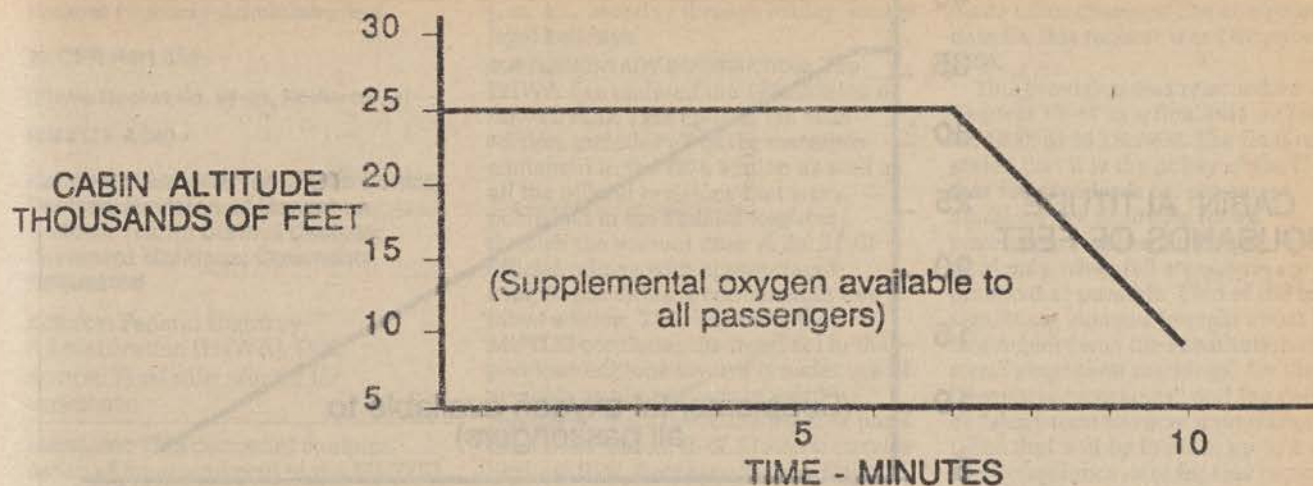
FIGURE 1



TIME - TEMPERATURE RELATIONSHIP

FIGURE 2





CABIN ALTITUDE - TIME HISTORY  
FIGURE 3

NOTE: For figure 3, time starts at the moment cabin altitude exceeds 8,000 feet during depressurization. If depressurization analysis shows that the cabin altitude limit of this curve is exceeded, the following alternate limitations apply: After depressurization, the maximum cabin altitude exceedence is limited to 30,000 feet. The maximum time the cabin altitude may exceed 25,000 feet is 2 minutes; time starting when the cabin altitude exceeds 25,000 feet and ending when it returns to 25,000 feet.



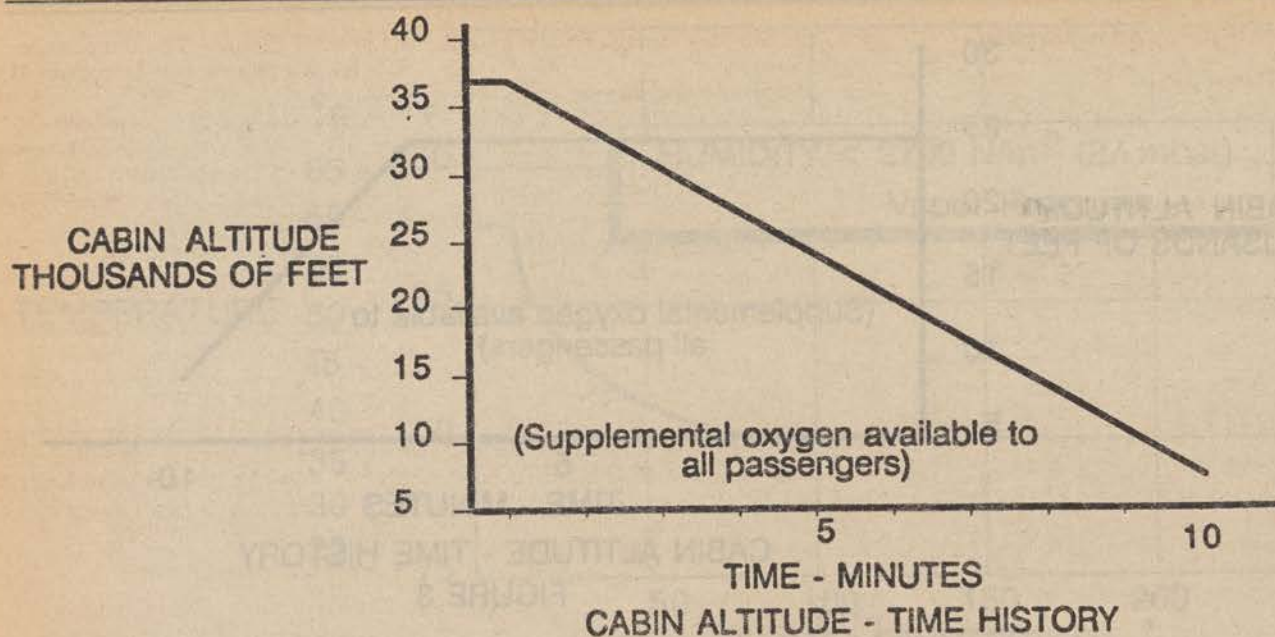


FIGURE 4

NOTE: For figure 4, time starts at the moment cabin altitude exceeds 8,000 feet during depressurization. If depressurization analysis shows that the cabin altitude limit of this curve is exceeded, the following alternate limitations apply: After depressurization, the maximum cabin altitude exceedence is limited to 40,000 feet. The maximum time the cabin altitude may exceed 25,000 feet is 2 minutes; time starting when the cabin altitude exceeds 25,000 feet and ending when it returns to 25,000 feet.



**Federal Highway Administration****23 CFR Part 655**

[FHWA Docket No. 87-21, Notice No. 3]

RIN 2125-AC40

**National Standards for Traffic Control Devices; Revision of Manual on Uniform Traffic Control Devices; Pavement Markings; Comments Requested****AGENCY:** Federal Highway Administration (FHWA), DOT.**ACTION:** Final rule; request for comments.

**SUMMARY:** This document contains notice of an amendment to the MUTCD. The MUTCD is incorporated by reference in 23 CFR part 655, subpart F and recognized as the national standard for traffic control devices on all public roads. The amendment affects Part VI of the MUTCD and is intended to expedite traffic, improve safety, and provide a more uniform application of highway signs, signals, and markings. The amendment will permit a highway agency to use short-term pavement markings until the earliest date when it is practical and possible to install pavement markings that meet full MUTCD standards.

Also, this document gives notice of the availability of the 1988 edition of the MUTCD and amends the section of regulations dealing with traffic control device standards for highways accordingly.

**DATES:** The final rule is effective January 24, 1990. Comments on the final rule must be received on or before February 15, 1990. Incorporation by reference of the publications listed in the regulations is approved by the Director of the Federal Register as of January 24, 1990.

**ADDRESS:** Submit signed, written comments concerning this interim amendment Docket No. 87-21, Notice No. 3, to the Federal Highway Administration, Room 4232, HCC-10, 400 Seventh Street SW., Washington, DC 20590. All comments received will be available for examination at the above address between 8:30 a.m. and 3:30 p.m., e.t., Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

**FOR FURTHER INFORMATION CONTACT:** Mr. Philip O. Russell, Office of Traffic Operations, (202) 366-2184, or Mr. Michael J. Laska, Office of Chief Counsel, (202) 366-1383, 400 Seventh Street SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15

p.m., e.t., Monday through Friday, except legal holidays.

**SUPPLEMENTARY INFORMATION:** The FHWA has updated the 1978 edition of the MUTCD. This update, the 1988 edition, includes all of the materials contained in the 1978 edition as well as all the official revisions that were published in the Federal Register through the present time. A list of all official rulings with appropriate compliance dates is contained in this latest edition. This edition of the MUTCD continues the trend set in the previous editions toward broader use of symbols as alternatives to word messages. Also, the following new parts have been added: II-G, Motorist Service Signing; II-H, Recreational and Cultural Interest Area Signs; II-I, Tourist Oriented Directional Signs; and VI-H, Control of Traffic Through Incident Management Areas.

The MUTCD is available for inspection and copying as prescribed in 49 CFR part 7, appendix D. It may be purchased for \$22.00 from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, Stock No. 050-001-00308-2.

Advance copies of the text changes to the MUTCD for all of the parts of this final rule will be distributed to everyone currently appearing on the FHWA Federal Register mailing list for MUTCD matters. Those wishing to receive an advance copy of the text changes or to be added to this mailing list should write to the Federal Highway Administration, Office of Traffic Operations, HTO-21, 400 Seventh Street SW., Washington, DC 20590.

**Background**

Each proposed revision is assigned an identification number which indicates, by Roman numeral, the primary organizational part of the MUTCD affected and, by Arabic numeral, the order in which the request was received (e.g. Request VI-3).

**Request VI-57(C)—Temporary Pavement Markings in Construction and Maintenance Areas**

This provision was originally published as Request VI-3 in a final rule on March 9, 1987, at 52 FR 7126. The provision, as published in the MUTCD, implemented requirements for minimum pavement marking treatments for traffic control in work zones. This revision provided for the minimum length of a temporary pavement marking stripe and the minimum stripe-to-gap ratios, allowed raised pavement markers to be used as supplements to or substitutes for temporary pavement markings, and

made other changes. The compliance date for this request was December 31, 1988.

This provision was reissued as Request VI-57 in a final rule on January 23, 1989, at 54 FR 2998. The final rule stated that it is the policy of the FHWA that full standards for pavement markings are desirable for all pavements and the minimums should be used only when full standards are not practical or possible. Two of the more significant changes brought about by this request was the substitution of the term "short-term markings" for the term "temporary markings" and the definition of "short-term pavement markings" as those that will be in place up to 2 weeks. The compliance date for this request was also December 31, 1988.

**Discussion of Amendment**

The FHWA has reevaluated the comments received in response to the notice of proposed rulemaking Docket No. 87-21, Notice No. 1 regarding Request VI-57 which was published as final on January 23, 1989. Discussions during the recent Tri-regional Safety Conferences and the American Association of State Highway and Transportation Officials Subcommittee on Traffic Engineering meeting, plus some prior docket comments on short-term pavement markings support the contention that there are practical problems with implementing a day specific standard as stated in the MUTCD. The definition of short-term pavement markings contained in the existing standards is: "Short-term pavement markings are those that will be in place up to 2 weeks." The time period used in this definition, based on experience, is within a reasonable range. The currently written standard (that is, a specific time period) is presented as a mandate in the form of a shall (will) condition. The standard does not allow for any deviations. The proper standards format for a situation of this type would be a presentation of reasonable goals or performance levels.

Therefore, the FHWA has decided to correct this standard. The FHWA finds that the format for the standard is not proper. A time period, in this case 2 weeks, was used to define "short-term pavement markings" in the January 23 final rule. This standard must be corrected to allow for reasonable deviations that occur under actual field conditions.

Section 6D-3, the first paragraph, the first sentence will be replaced with two sentences and will read:

Short-term pavement markings are those that may be used until the earliest date when



it is practical and possible to install pavement markings that meet the full MUTCD standards for pavement markings. Normally, it should not be necessary to leave short-term pavement markings in place for more than 2 weeks.

In consideration of the foregoing and under the authority of 23 U.S.C. 109(d), 315, 402(a), and the delegation of authority in 49 CFR 1.48(b), the FHWA hereby adopts the MUTCD as amended herein.

#### Regulatory Impact

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under the regulatory policies and procedures of the Department of Transportation. As stated herein, the economic impact of these amendments is so minimal as not to require preparation of a full regulatory evaluation. For the same reasons and under the criteria of the Regulatory Flexibility Act, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities.

The subject matter addressed by this final rule was the subject of a notice of proposed rulemaking (NPRM) on January 27, 1988. In this NPRM, wording similar to that contained in this revision was proposed. Public comments could have justified a 2-week definition or could have supported this more flexible approach. Since publication of the final rule, the FHWA has reevaluated the standard based on available data and has determined that the more flexible approach is warranted. To propose the revision once again would only serve to duplicate the comments that were received to the original NPRM.

For the foregoing reasons, the FHWA finds good cause to make the amendment effective without additional notice and opportunity for comment and without a 30-day delay in effective date pursuant to 5 U.S.C. 553(b)(3)(B). Accordingly, the amendment will become effective immediately. However, the FHWA gives notice that comments on this amendment will be accepted and evaluated in determining the need for future procedural provisions.

While the FHWA does not anticipate that there will be any additional useful public comment on the amendment, there may be some procedural comments on the provisions contained in this final rule. For this reason, publication of this final rule without an opportunity for additional comment, but with a request for comments following publication is consistent with the Department of Transportation's regulatory policies and procedures.

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

#### Incorporation by Reference

The MUTCD has been incorporated by reference in 23 CFR part 655 under the provisions of 5 U.S.C. 552(a) and 1 CFR part 51 and approved by the Director of the Federal Register as of April 1, 1989. The MUTCD was last revised on January 23, 1989 (54 FR 2998). The MUTCD citation included in 23 CFR part 655 will be revised to reflect the amendments contained in this document.

A regulatory information number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

#### List of Subjects in 23 CFR Part 655

Design standards, Grant programs—transportation, Highways and roads, Incorporation by reference, Signs, Traffic regulations.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: January 12, 1990.

T.D. Larson,  
Administrator.

The FHWA hereby amends chapter 1 of title 23, Code of Federal Regulations, by amending part 655 as set forth below.

#### PART 655—TRAFFIC OPERATIONS

1. The authority citation for part 655 is revised to read as set forth below and all other authority citations which appear throughout part 655 are removed:

Authority: 23 U.S.C. 101(a), 104, 105, 109(d), 114(a), 135, 217, 307, 315, and 402(a); 23 CFR 1.32 and 1204.4; and 48 CFR 1.48(b).

2. In § 655.601, paragraph (a) is amended by revising the first sentence to read as follows:

§ 655.601 Purpose.

\* \* \* \* \*

(a) Manual on Uniform Traffic Control Devices for Streets and Highways, FHWA, 1988, as of March 1989 \* \* \*

[FR Doc. 90-1545 Filed 1-23-90; 8:45 am]

BILLING CODE 4910-22-M

#### DEPARTMENT OF THE TREASURY

##### Internal Revenue Service

##### 26 CFR Parts 1 and 602

[T.D. 8282]

RIN-1545-A023

#### Election of Reduced Research Credit; Income Taxes

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

**SUMMARY:** This document contains final income tax regulations relating to the manner of making an election under section 280C(c)(3) of the Internal Revenue Code, as amended by section 7814(e)(2)(A) of the Revenue Reconciliation Act of 1989. This election enables a taxpayer to claim a reduced income tax credit for increasing research activities and thereby avoid a reduction of the section 174 deduction for research and experimental expenditures. These regulations provide guidance to persons making the election. **EFFECTIVE DATE:** These regulations are effective for taxable years beginning after December 31, 1988.

**FOR FURTHER INFORMATION CONTACT:** David S. Hudson, 202-566-4821 (not a toll-free call).

#### SUPPLEMENTARY INFORMATION:

##### Paperwork Reduction Act

This regulation is being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collection of information contained in this regulation has been reviewed and, pending receipt of public comments, approved by the Office of Management and Budget (OMB) under control number 1545-1155.

Comments concerning the collection of information and the accuracy of estimated average annual burden and suggestions for reducing this burden should be directed to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports



Clearance Officer T:FP, Washington, DC 20224.

The collection of information in this regulation is in § 1.280C-4. This information is required by the Internal Revenue Service to compute the federal income tax liability of taxpayers. The likely respondents/recordkeepers are business and other for-profit taxpayers.

These estimates are an approximation of the average time expected to be necessary for a collection of information. They are based on such information as is available to the Internal Revenue Service. Individual respondents/recordkeepers may require greater or less time, depending on their particular circumstances.

The estimated total annual reporting and/or recordkeeping burden is 65 hours.

The estimated average annual burden per respondent/recordkeeper is .3 hours to complete the election.

The estimated number of respondents/recordkeepers making the election described in this regulation is 220.

The estimated annual frequency of responses (for reporting requirements only) is one.

#### Background

In the Technical and Miscellaneous Revenue Act of 1988 (the 1988 Act), Congress extended the termination date of section 41 of the Code, relating to the income tax credit for increasing research activities. At the same time, Congress added a new paragraph (c) to section 280C, effective for taxable years beginning after December 31, 1988. Paragraphs (1) and (2) of new section 280C(c) require taxpayers to reduce the amount of qualified research expenses otherwise allowable as a deduction under section 174 by an amount equal to a certain percentage of the credit determined under section 41(a). For taxable years beginning in 1989, this "deduction disallowance" equals 50 percent of the credit determined under section 41(a). For taxable years beginning after December 31, 1989, section 7110 (c) of the Revenue Reconciliation Act of 1989 (the 1989 Act) increases the deduction disallowance to 100 percent of the credit determined under section 41(a).

The 1988 Act also added a new section 41(h) to the Code, which permitted a taxpayer to avoid the section 174 deduction disallowance for a taxable year by electing to forego entirely the taxpayer's section 41(a) credit for the year. Section 7814(e) of the 1989 Act modified this election by

retroactively repealing section 41(h), and adding new section 280C(c)(3). New section 280C(c)(3) reduces an electing taxpayer's section 41(a) credit only by an amount equal to the taxes saved from avoiding the deduction disallowance.

Specifically, under new section 280C(c)(3)(C), a taxpayer is permitted to avoid the deduction disallowance provisions of section 280C(c) (1) and (2) by electing to reduce its section 41(a) credit by the amount of tax saved (assuming the highest corporate tax rate) by not making a reduction in the amount allowable as a deduction under section 174. (See section 280C(c)(3) as amended by sections 7814(e) and 7110(c)(1) of the 1989 Act.) Subparagraph (B) of section 280C(c)(3) provides the method for computing the reduced credit for taxpayers making this election. The taxpayer must first compute its section 41(a) credit without regard to section 280C(c)(3), and then multiply this amount (or 50 percent of this amount for taxable years beginning before January 1, 1990) by the maximum rate of tax in section 11(b)(1) of the Code. The product of this multiplication is then subtracted from the full amount of the section 41(a) credit. The remainder is the amount of credit allowed.

Section 280C(c)(3)(C) provides that the election shall be made not later than the time for filing the federal tax return (including extensions) for the taxable year in which the election is made. The election shall be made on such return, and shall be made in such manner as the Secretary of the Treasury may prescribe. The election for a taxable year, once made, shall be irrevocable. In the case of a taxable year for which the time for filing the return of tax (including extensions) is on or before the date which is 75 days after the enactment of the 1989 Act (that date is March 4, 1990), section 7814(e)(2)(B) of the 1989 Act provides that the election for that taxable year may be made at any time before the date which is 75 days after the date of enactment of the 1989 Act, in the manner prescribed by the Secretary of the Treasury. This document contains regulations prescribing the manner for making the election.

#### Explanation of Provisions

Regulations § 1.280C-4 provides that the election under section 280C(c)(3) shall be made by claiming the reduced research credit under section 41(a) determined by the method provided in section 280C(c)(3)(B) on an original return, filed at any time on or before the due date (including extensions) for filing the income tax return for such year.

Except as provided below, for a taxable year described in section 7814(e)(2)(B) of the 1989 Act (that is, a taxable year beginning after December 31, 1988 for which the time for filing the return (including extensions) is on or before March 4, 1990), the election shall be made by claiming the reduced credit on an original or amended return filed on or before March 3, 1990.

A taxpayer will be treated as having made the election under section 280C(c)(3) if (1) prior to December 19, 1989 (the enactment date of the 1989 Act) the taxpayer made an election for a taxable year described in section 7814(e)(2)(B) of the 1989 Act under former section 41(h) (by not claiming any section 41(a) credit), and (2) the taxpayer has not filed an amended return on or before March 3, 1990 claiming the full credit allowable under section 41(a). In effect, taxpayers that elected under former section 41(h) to forego all of the credit in favor of a full deduction will be treated as having elected to forego a part of the credit under section 280C(c)(3). If a taxpayer who made the section 41(h) election does not wish to be treated as having made an election under section 280C(c)(3), the taxpayer must file an amended return for such taxable year on or before March 3, 1990, claiming the full section 41(a) credit. If a taxpayer is treated as having made the section 280C(c)(3) election in the taxable year described above, the provisions of section 280C(c) (1) and (2) shall not apply in such taxable year.

In order to obtain the benefit of the reduced section 41(a) credit, a taxpayer who is treated as having made the section 280C(c)(3) election must claim the reduced section 41(a) credit determined by the method provided in section 280C(c)(3)(B) (as opposed to claiming no credit under former section 41(h)) on an amended return filed at any time before the expiration of the period prescribed in section 6511 of the Code for filing a claim for credit or refund of the tax imposed by chapter 1 of the Code.

#### Special Analyses

It has been determined that these rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a final Regulatory Flexibility Analysis is not



required. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations have been submitted to the Administrator of the Small Business Administration for comment on their impact on small business.

#### Drafting Information

The principal author of these regulations is David S. Hudson of the Office of Assistant Chief Counsel (Passthroughs and Special Industries). However, personnel from other offices of the Internal Revenue Service and the Treasury Department participated in their development.

#### List of Subjects

##### 26 CFR Part 1.61-1—1.281-4

Income taxes, Taxable income, Deductions, Exemptions.

##### 26 CFR Part 602

Reporting and recordkeeping requirements.

#### Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 and part 602 are amended as follows:

#### PART 1—[AMENDED]

Paragraph 1. The authority for part 1 is amended by adding the following citation:

Authority: 26 U.S.C. 7805. \* \* \* Section 1.280C-4 also issued under 26 U.S.C. 280C(c) and 103 Stat. 2413. \* \* \*

Par. 2. A new § 1.280C-4 is added immediately after § 1.280C-3 to read as follows:

##### § 1.280C-4 Credit for increasing research activities.

(a) *In general.* The election under section 280C(c)(3) to have the provisions of section 280C(c)(1) and (2) not apply shall be made by claiming the reduced credit under section 41(a) determined by the method provided in section 280C(c)(3)(B) on an original return for the taxable year, filed at any time on or before the due date (including extensions) for filing the income tax return for such year. An election, once made for any taxable year, shall be irrevocable for that taxable year.

(b) *Transition rule—(1) In general.* In the case of a taxable year beginning after December 31, 1988, for which the due date (including extensions) for filing the return is on or before March 4, 1990, the election under section 280C(c)(3) shall be made by claiming the reduced credit under section 41(a) determined by the method provided in section 280C(c)(3)(B) on an original or amended

return for such taxable year filed on or before March 3, 1990.

(2) *Taxpayers who made an election under former section 41(b).* If a taxpayer—

(i) Prior to December 19, 1989, made an election for a taxable year described in paragraph (b)(1) of this section under section 41(h) (as it existed before it was repealed by section 7814(e) of the Revenue Reconciliation Act of 1989) by not claiming any credit allowable under section 41(a), and

(ii) Has not filed an amended return on or before March 3, 1990 claiming the full credit allowable under section 41(a), the taxpayer will be treated as having made an election under section 280C(c)(3). Therefore, the provisions of section 280C(c)(1) and (2) shall not apply in such taxable year. However, in order to obtain the benefit of the reduced credit under section 41(a) determined by the method provided in section 280C(c)(3)(B), such a taxpayer must claim the reduced credit on an amended return filed before the expiration of the period prescribed in section 6511 for filing a claim for credit or refund of the tax imposed by chapter 1 of the Code.

(c) *Effective date.* The provisions of this section are effective for taxable years beginning after December 31, 1988.

#### PART 602—[AMENDED]

Par. 3. The authority for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

##### § 602.101 [Amended]

Par. 4. Section 602.101(c) is amended by inserting in the appropriate place in the table "§ 1.280C-4 . . . 1545-1155".

This Treasury decision merely prescribes the manner of making the election under section 280C(c)(3). For this reason, it is found unnecessary to issue this Treasury decision with notice and public procedure under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

Approved:  
Dated: January 16, 1990.  
Fred T. Goldberg, Jr.,  
Commissioner of Internal Revenue.  
Kenneth W. Gideon,  
Assistant Secretary of the Treasury.

[FR Doc. 90-1520 Filed 1-23-90; 8:45 am]

BILLING CODE 4830-01-M

#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Part 180

[PP7E3566/R1050; FRL-3667-41]

#### Pesticide Tolerance for Methidathion

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

**SUMMARY:** This document establishes a tolerance for residues of the insecticide methidathion in or on the raw agricultural commodity kiwifruit. This regulation to establish a maximum permissible level for residues of the insecticide in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4.

**DATE:** This regulation becomes effective January 24, 1990.

**ADDRESS:** Written objections, identified by the document control number, [PP7E3566/R1050], may be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** By mail: Hoyt L. Jamerson, Emergency Response and Minor Use Section (H7505C), Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 718C, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-557-2310.

**SUPPLEMENTARY INFORMATION:** In the Federal Register of November 1, 1989 (54 FR 46084), EPA issued a proposed rule that gave notice that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition (PP) 7E3566 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR-4 Project, and the Agricultural Experiment Station of California and the United States Department of Agriculture.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the combined residues of the insecticide methidathion (O,O-dimethyl phosphorodithioate, S-ester with 4-(mercaptomethyl-2-methoxy-1,3,4-thiadiazolin-5-one)) in or on the raw agricultural commodity kiwifruit at 0.1 part per million.

The petitioner proposed that the use of methidathion on kiwifruit be limited to



use in California based on the geographical representation of the residue data submitted. Additional data will be required to expand the area of usage. Persons seeking geographically broader registration should contact the Agency's Registration Division at the address provided above.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted in the petition and other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerance will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the Federal Register file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

#### List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: January 4, 1990.

Douglas D. Camp, Jr.

Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

#### PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In § 180.298, by adding new paragraph (c), to read as follows:

#### § 180.298 Methidathion; tolerances for residues.

(c) Tolerances with regional registration, as defined in § 80.1(n), are established for residues of the insecticide methidathion (O,O-dimethyl phosphorodithioate, S-ester with 4-(mercaptomethyl-2-methoxy-1,3,4-thiadiazolin-5-one), in or on the following raw agricultural commodity:

Commodity	Parts per million
Kiwifruit.....	0.1

[FR Doc. 90-1590 Filed 1-23-90; 8:45 am]

BILLING CODE 6560-50-D

#### 40 CFR Part 180

[PP8F3664/R1053; FRL-3686-7]

#### Pesticide Tolerance for Aluminum Tris (O-Ethylphosphonate)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

**SUMMARY:** This document establishes a tolerance for residues of the fungicide aluminum tris (O-ethylphosphonate) in or on caneberries as defined in 40 CFR 180.1(h). This regulation to establish the maximum permissible level for residues of the fungicide in or on the raw agricultural commodity was requested by Rhone-Poulenc Ag Co.

**DATES:** This regulation becomes effective January 24, 1990.

**ADDRESSES:** Written objections, identified by the document control number, [PP8F3664R1053], may be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** By mail: Susan T. Lewis, Product Manager (PM) 21, Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 227, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, 703-557-1900.

**SUPPLEMENTARY INFORMATION:** EPA issued a proposed rule, published in the Federal Register of October 12, 1988 (53 FR 39784), which announced that Rhone-Poulenc Ag Co., P.O. Box 12014, 2 T.W. Alexander Drive, Research Triangle Park, NC 27709, had submitted pesticide petition 8F3664 to EPA requesting that the Administrator, pursuant to section 408(d) of the Federal Food, Drug, and

Cosmetic Act, propose the establishment of a tolerance for the fungicide aluminum tris (O-ethylphosphonate) in or on the raw agricultural commodity caneberries at 0.1 part per million (ppm).

There were no comments or requests for referral to an advisory committee received in response to the notice of filing.

The data submitted in the petition and other relevant material have been evaluated. Based on a review of this information, the Agency concludes that the establishment of this tolerance will protect the public health.

The toxicology data considered in support of the tolerance include:

1. An oncogenicity study in mice with no oncogenic effects observed at any dose level under the conditions of the study (the highest dose tested was 2,857/4,286 mg/kg body weight (bwt)/day).

2. A rat chronic feeding oncogenicity study with a no-observed-effect level (NOEL) of 100 mg/kg bwt/day for systemic effects (oncogenic effects observed are discussed below.).

3. A dog-feeding study with a NOEL of 250 mg/kg bwt/day.

4. A reproduction study in rats with a NOEL of 300 mg/kg bwt/day.

5. Teratology studies in rabbits and rats with teratogenic NOELs of 500 mg/kg/day and 1,000 mg/kg/day, respectively.

6. Ames mutagenicity assays, *E. coli* phage induction tests, micronucleus tests in mice, DNA repair tests using *E. coli*, and *Saccharomyces cerevisiae* yeast assay that were all negative for mutagenic effects.

As stated in a notice, published in the Federal Register of November 2, 1983 (48 FR 50532), oncogenic effects were noted in the rat chronic feeding oncogenicity study. In this study, Charles River CD rats were dosed with aluminum tris (O-ethylphosphonate) at levels of 0, 2,000, 8,000, and 40,000/30,000 ppm (0, 100, 400, and 2,000/1,500 mg/kg bwt/day) after 2 weeks following observations of staining of the abdominal fur and red coloration of the urine at 40,000 ppm (2,000 mg/kg bwt/day).

The highest dose level of the chemical tested in the male Charles River CD-1 rats (2,000/1,500 mg/kg bwt/day) in this study appeared to approximate a maximum tolerated dose (MTD) based on the finding of urinary bladder hyperplasia at this dose. Similarly, an MTD level appeared to be satisfied in the female Charles River CD-1 rats at the high-dose level of 2,000/1,500 mg/kg bwt during the first 2 weeks of the oncogenicity/chronic feeding study



before the dose level was reduced to 1,500 mg/kg bwt/day.

The study demonstrated a significantly elevated incidence of urinary bladder tumors (adenomas and carcinomas combined) at the highest dose level tested (2,000/1,500 mg/kg) in male Charles River CD-1 rats. The tumors were mainly seen in surviving males at the time of terminal sacrifice. The original pathological diagnosis of these tumors was independently confirmed by another consulting pathologist, who also reported an elevated incidence of urinary bladder hyperplasia in high-dose male rats. No elevated incidence of urinary bladder tumors was observed in female rats.

Based on the diagnosis of the pathologist at the test laboratory where the study was performed, aluminum tris (O-ethylphosphonate) appeared to produce a statistically significant elevated incidence of adrenal pheochromocytomas (adenomas and carcinomas combined) at the mid (400 mg/kg) and high (2,000/1,500 mg/kg) dose levels in the male Charles River CD-1 rats. The elevated pheochromocytoma incidence was primarily due to an increase in the adenomas. This diagnosis was not confirmed by two other pathologists who reevaluated the data. These consulting pathologists reread the adrenal gland slides and did not find statistically significant dose-related increases in the incidence of pheochromocytomas for the male rats. The Agency attributed the difference in the pathological diagnoses to the fact that a high degree of variability exists in the interpretation of adrenal medullary neoplasia compared to adrenal medullary hyperplasia in identifying pheochromocytomas. None of the three pathologists reported a statistically significant increase in the combined incidence of the three types of adrenal medullary lesions (i.e., adenomas, carcinomas, and hyperplasia).

Based on the available information, the Agency has concluded that aluminum tris (O-ethylphosphonate) did not produce a compound-related increase in adrenal pheochromocytomas in the high-dose male rats. No adrenal gland tumors were produced in female rats.

The Agency has concluded that the available data provide limited evidence for the oncogenicity of aluminum tris (O-ethylphosphonate) in male rats and has classified the pesticide as a Category C oncogen (possible human carcinogen with limited evidence of carcinogenicity in animals) in accordance with proposed Agency guidelines, published in the Federal Register of November 23, 1984

(49 FR 46294). Based on a review by the Health Effects Division Peer Review Committee of the Office of Pesticide Programs, the Agency has determined that a quantitative risk assessment is not suitable for the following reasons:

1. The oncogenic response observed with this chemical was confined solely to the high-dose males at one site (urinary bladder) in rats.

2. The tumor response was primarily due to an increase in benign tumors.

3. The tumors were seen only in surviving animals at the time of terminal sacrifice.

4. The oncogenic effects were observed only at unusually high doses which exceed the commonly used limit dose of 1 g/kg/day recommended as an upper-limiting dose for bioassays.

5. The chemical was not oncogenic when administered in the diet to Charles River CD-1 mice at dose levels ranging from 2,500 to 30,000 ppm (357 to 4,286 mg/kg bwt/day).

6. Aluminum tris (O-ethylphosphonate) was not mutagenic in a battery of eight well conducted genotoxicity assays.

Using a 100-fold safety factor and the NOEL of 250 mg/kg bwt/day determined by the 2-year dog feeding study, the allowable daily intake (ADI) is 3.0 mg/kg bwt/day. The theoretical maximum residue contribution (TMRC) from the established and proposed tolerances is 0.000274 mg/kg bwt/day and utilizes less than 1.0 percent of the ADI. Previous tolerances have been established for aluminum tris (O-ethylphosphonate) in asparagus, citrus, pineapples, and pineapple forage and fodder; a food additive tolerance for cottonseed oil is also established.

The metabolism of aluminum tris (O-ethylphosphonate) is adequately understood. There is no reasonable expectation of residues occurring in milk and meat of livestock or poultry.

The nature of the residue is adequately understood, and an adequate analytical method, gas-liquid chromatography, is available for enforcement purposes. Because of the long lead time from establishing this tolerance to publication of the enforcement methodology in the *Pesticide Analytical Manual*, Vol. II, the analytical methodology is being made available in the interim to anyone interested in pesticide enforcement from: Calvin Furlow, Public Information Branch, Field Operations Division (H-7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 242, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, 703-557-4432.

The pesticide is considered useful for the purposes for which the tolerance is sought. Based on the information and data considered, the Agency concludes that the establishment of the tolerance will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the *Federal Register*, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by the grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement of this effect was published in the *Federal Register* of May 4, 1981 (46 FR 24950).

#### List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: December 22, 1989.

Douglas D. Campi,  
Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

#### PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In § 180.415, by amending paragraph (a) by adding and alphabetically inserting the raw agricultural commodity caneberries, to read as follows:

§ 180.415 Aluminum tris (O-ethylphosphonate); tolerances for residues.

(a) \* \* \*



Commodities	Parts per million
Caneberries .....	0.1

[FR Doc. 90-1588 Filed 01-23-90; 8:45 am]  
BILLING CODE 6560-50-D

#### 40 CFR Part 180

[PP8E3618/R1049; FRL-3667-3]

#### Pesticide Tolerance for O,O-Dimethyl-[(4-Oxo-1,2,3-Benzotriazin-3(4H)-yl)methyl]phosphorodithioate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

**SUMMARY:** This document establishes a tolerance for the residues of the insecticide O,O-dimethyl S-[(4-oxo-1,2,3-benzotriazin-3(4H)-yl)methyl]phosphorodithioate (referred to in this document as azinphos-methyl) in or on the raw agricultural commodity pomegranates. This regulation to establish a maximum permissible level for residues of the insecticide in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

**DATES:** This regulation becomes effective January 24, 1990.

**ADDRESSES:** Written objections, identified by the document control number, [PP8E3618/R1049], may be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** By mail: Hoyt L. Jamerson, Emergency Response and Minor Use Section (H7505C), Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 716C, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-557-2310.

**SUPPLEMENTARY INFORMATION:** In the Federal Register of November 1, 1989 (54 FR 46082), EPA issued a proposed rule that gave notice that the the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition (PP) 8E3618 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR-4 Project, and the Agricultural Experiment Station of California.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the combined residues of the insecticide azinphos-methyl in or on the raw agricultural commodity pomegranates at 0.1 part per million (ppm).

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted in the petition and other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerance will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the Federal Register file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

#### List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: January 4, 1990.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

#### PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In § 180.154, by designating the current paragraph and list of tolerances as paragraph (a) and by adding new paragraph (b), to read as follows:

§ 180.154 O,O-Dimethyl S-[(4-oxo-1,2,3-benzotriazin-3(4H)-yl)methyl]phosphorodithioate; tolerances for residues.

(b) Tolerances with regional registration, as defined in § 180.1(n), are established for residues of the insecticide O,O-dimethyl S-[(4-oxo-1,2,3-benzotriazin-3(4H)-yl)methyl]phosphorodithioate in or on the following commodity:

Commodities	Parts per million
Pomegranates .....	0.1

[FR Doc. 90-1591 Filed 01-23-90; 8:45 am]  
BILLING CODE 6560-50-D

#### GENERAL SERVICES ADMINISTRATION

#### 41 CFR Part 301-8

[FTR Amendment 7]

#### Federal Travel Regulation; Reimbursement of Actual Subsistence Expenses in Presidentially Declared Disaster Area

AGENCY: Federal Supply Service, GSA.

ACTION: Final rule.

**SUMMARY:** This final rule amends the Federal Travel Regulation to provide for the establishment of higher maximum daily rates for the reimbursement of actual subsistence expenses of Federal employees on official travel to Presidentially declared disaster areas. This will protect Federal travelers from financial hardship when affordable lodging is unavailable in a Presidentially declared disaster area such as occurred in Charleston, South Carolina, following Hurricane Hugo in September 1989.

**EFFECTIVE DATE:** The provisions of this amendment are effective September 22, 1989, and apply for travel performed on or after September 22, 1989.

**FOR FURTHER INFORMATION CONTACT:** Larry Tucker, Travel Management Division (FBT), Washington, DC 20406, telephone FTS 557-1253 or commercial (703) 557-1253.

**SUPPLEMENTARY INFORMATION:** In September 1989 Hurricane Hugo caused widespread devastation in a broad area surrounding Charleston, South Carolina.



The magnitude of the disaster and the great influx of emergency personnel required to deal with its effects resulted in a severe shortage of affordable lodging. Many Federal employees performing temporary duty in the area were forced to incur lodging costs that greatly exceeded both the maximum per diem allowance and actual subsistence expense reimbursement ceilings. The Federal Emergency Management Agency requested authority to permit adequate reimbursement for this and any future Presidentially declared disasters.

The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of \$100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for and consequences of this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

#### List of Subjects in 41 CFR Part 301-8

Government employees, Travel, Travel allowances, Travel and transportation expenses.

For the reasons set out in the preamble, 41 CFR part 301-8 is amended as follows:

#### PART 301-8—REIMBURSEMENT OF ACTUAL SUBSISTENCE EXPENSES

1. The authority citation for part 301-8 continues to read as follows:

Authority: 5 U.S.C. 5701-5709; E.O. 11609, July 22, 1971 (36 FR 13747).

2. Section 301-8.3 is amended by revising the introductory text and paragraphs (a)(1) and (b)(1) introductory text, and by adding paragraph (d) to read as follows:

##### § 301-8.3 Maximum daily rates and reimbursement limitations.

The maximum amount of reimbursement for actual subsistence expenses that may be authorized or approved for each calendar day or fraction thereof is as provided in paragraphs (a), (b), and (d) of this section. Agencies shall determine appropriate and necessary daily maximum rates not to exceed these amounts when authorizing or approving travel under this part 301-8. Maximum

daily rates need not be prorated for fractions of a day; however, see paragraphs (a)(2), (b)(2), and (d) of this section for reimbursement limitations.

(a) *Travel within CONUS*—(1) *Maximum daily rates.* Except as provided in paragraph (d) of this section, for travel within CONUS, the maximum daily rate for subsistence expenses shall not exceed 150 percent of the applicable maximum per diem rate (rounded to the next higher dollar) prescribed in Appendix A of this chapter for the travel assignment location.

(b) *Travel outside CONUS*—(1) *Maximum daily rates.* Except as provided in paragraph (d) of this section, for travel outside CONUS, the maximum daily rate for subsistence expenses shall not exceed the amount prescribed by the Departments of Defense and State, respectively, for nonforeign and foreign areas as set forth in paragraph (b)(1)(i) or (b)(1)(ii) of this section, whichever is greater:

(d) *Travel to a Presidentially declared disaster area.* For travel to a Presidentially declared disaster area, the Director of the Federal Emergency Management Agency (FEMA) may request establishment of a maximum daily rate for subsistence expenses above the maximum rate prescribed in paragraph (a)(1) or (b)(1) of this section. The Administrator of General Services may establish an appropriate maximum daily rate, not to exceed 300 percent of the maximum per diem rate prescribed for the area under § 301-7.2, pursuant to a review of the justification supporting the request. Such higher established rate shall apply for all official travel to the disaster area and will be effective for a period not to exceed 30 days. The Administrator of General Services may extend the period of effectiveness in increments of 30 days upon the request of the Director of FEMA. Requests should be submitted to the Administrator of General Services, Washington, DC 20405, and must contain the following information:

(1) A copy of the Presidential disaster declaration and a specification of the geographic area encompassed;

(2) A recommended maximum daily rate not to exceed 300 percent of the maximum per diem rate prescribed for the area under § 301-7.2;

(3) A description of the specific circumstances which justify the establishment of the recommended rate; and

(4) A recommended time period for effectiveness of the maximum daily rate

requested to be established under this paragraph.

Dated: January 9, 1990.

Richard G. Austin,  
Acting Administrator of General Services.  
[FR Doc. 90-1562 Filed 1-23-90; 8:45 am]  
BILLING CODE 6820-24-M

#### FEDERAL COMMUNICATIONS COMMISSION

##### 47 CFR Part 1

[General Docket 88-469; FCC 89-354]

#### Request for Declaratory Ruling; Radiofrequency Radiation Compliance

AGENCY: Federal Communications Commission.

ACTION: Final rule.

**SUMMARY:** This item amends part 1 of the Commission's Rules and Regulations regarding evaluation for environmental impact due to radiofrequency radiation. The rule amendment is in response to the Commission's *Notice of Proposed Rule Making* (53 FR 40918, 10-19-88) and a prior request for declaratory ruling. The amendment revises the note following § 1.1307(b), thereby clarifying responsibility for compliance with radiofrequency exposure standards at multiple-transmitter sites. The new rule will apply to all transmitters, otherwise not excluded from consideration under this section, that create exposure levels that are more than 1% of the appropriate limits. Licensees of such transmitters are to be jointly responsible for any corrective action necessary to bring an area into compliance with the identified standards. Licensees of all other transmitters at such sites will be exempted from responsibility for corrective action. As originally requested by the petitioner, this item also provides guidelines with respect to the issue of measurement and interpretation of intense, localized, electromagnetic fields.

**EFFECTIVE DATE:** April 18, 1990.

**ADDRESSES:** Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Dr. Robert Cleveland, Office of Engineering and Technology, FCC, (202) 653-8169.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Report and Order*, General Docket 88-469, FCC 89-354, Adopted December 20, 1989, and Released January 18, 1990.

The full text of this Commission decision is available for inspection and



copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Public reporting burden for this collection of information is estimated to vary from 1 to 24 hours per response with an average of 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of the burden, to the Federal Communications Commission, Office of Managing Director, Washington, DC 20554, and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503.

#### Summary of Report and Order

1. Under the terms of the National Environmental Policy Act (NEPA), the Commission is required to ensure appropriate environmental evaluation of actions it takes that may significantly affect the human environment. One potential environmental effect of Commission actions is human exposure to radiofrequency (RF) radiation resulting from transmitting sources it regulates. In 1985, the Commission adopted a *Report and Order* (50 FR 11151, 1985) to provide for routine evaluation of environmental RF radiation from certain FCC-authorized facilities and services. This was followed by a *Second Report and Order* (52 FR 13240, 1987) further defining FCC policy and providing for categorical exclusion of certain facilities. The Commission's policy on compliance with RF radiation standards is set forth in § 1.1307(b) of the Rules [47 CFR 1.1307(b)].

2. In 1987, Hammett & Edison, Inc., filed with the Commission a request for declaratory ruling with regard to evaluating compliance with RF safety standards. The Commission considered this request as a petition for rule making, and comments on the petition were solicited. The petitioner had requested clarification of Commission policy in three areas: (1) The definition of a broadcast "site"; (2) the term "significant" as quoted in the rules and in NEPA; and (3) the treatment of intensified, localized electromagnetic fields found near re-radiating objects ("hot spots").

3. The Commission adopted a *Notice of Proposed Rule Making* (NPRM), in 1988, proposing rule changes in § 1.1307(b) that would address the first two issues (53 FR 40918, 1988). This *Report and Order* is a result of that NPRM. It amends part 1 of the Commission's Rules by revising the note following § 1.1307(b) to clarify responsibility for compliance with RF standards at locations involving multiple-transmitters. The new rule will apply at locations where the identified RF exposure guidelines are exceeded due to the emissions from more than one transmitter. In such situations, licensees of all transmitters, not otherwise excluded from consideration, that contribute to an area of excessive exposure will be jointly responsible for the submission of Environmental Assessments and any necessary corrective action if their respective contributions exceed 1% of the appropriate exposure guidelines identified by the Commission. Licensees of other transmitters at such sites will be excluded from responsibility for corrective action as long as the 1% criterion is met. Newcomers to a multiple-transmitter site that would create a non-complying situation to occur will be responsible for submission of an Environmental Assessment and/or taking corrective action if the newcomer's emissions contribute radiation in excess of 1% of the exposure limits to an area of non-compliance.

4. This item replaces the previous note following § 1.1307(b) with three notes. Note 1 specifies the general classes of transmitters to which the rule section applies. Note 2 concerns the new rule for responsibility and categorical exclusion at multiple-transmitter sites. Note 3 reiterates that the Commission retains the right to review the environmental significance of any action that might be otherwise categorically excluded as specified in §§ 1.1307(c) and 1.1307(d).

5. This item also provides guidelines concerning another issue raised by the petitioner. This issue relates to the measurement and interpretation of field intensities near re-radiating conductive objects and the creation of so-called "hot spots." No specific proposal is made for amending the Commission's rules with respect to this issue. However, further guidance is provided, and a recommendation is made for a minimum separation distance of 20 centimeters between the closest sensing element of a probe and re-radiating object.

6. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 604, a final regulatory flexibility analysis has been prepared. It is available for public viewing as part of the full text of this decision, which may be obtained from the Commission or its copy contractor.

#### Ordering Clauses

Accordingly, *It Is Ordered That*, effective April 18, 1990, part 1 of the Commission's Rules and Regulations, chapter I of title 47 of the Code of Federal Regulations, is amended as set forth below and that this amendment will be applicable to applications filed on or after this effective date.

This action is taken pursuant to the provisions of sections 4(i), 4(j), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j) and 303(r), and section 553 of the Administrative Procedure Act, 5 U.S.C. section 553.

#### List of Subjects in 47 CFR Part 1

Administrative practice and procedure, National environmental policy act, Radio-frequency radiation.

#### Rule Changes

Part 1, chapter I, of title 47 of the Code of Federal Regulations is amended as follows:

#### PART 1—PRACTICE AND PROCEDURE

1. The authority citation for part 1 continues to read:

Authority: Secs. 4(i), 4(j), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), and 303(r).

2. In § 1.1307, the note in paragraph (b) is replaced by three notes to read as follows:

**§ 1.1307 Actions which may have a significant environmental effect, for which environmental assessments (EAs) must be prepared.**

• • • • •  
(b) • • •

Note 1: Paragraph (b) shall apply to facilities and operations licensed or authorized under the following Parts of the Commission's Rules: 5, 25, 73, 74 (subpart A), 74 (subpart C), 74 (subpart L; applicable only to FM booster stations with output powers in excess of 10 watts), and 80 (applicable only to ship earth stations). Facilities and operations licensed or authorized under all other parts, subparts, or sections of the Commission's Rules shall be categorically excluded from consideration under paragraph (b).

Note 2: When the exposure guidelines specified in paragraph (b) are exceeded in an accessible area due to emissions from multiple transmitters, actions necessary to bring the area into compliance with the



guidelines shall be the shared responsibility of all licensees (not otherwise categorically excluded under Note 1) whose transmitters produce fields at the area in question in excess of 1% of the exposure limits applicable to their transmitter. Applicants for proposed facilities or modifications (not otherwise categorically excluded under Note 1) that would cause non-compliance at an area previously in compliance must submit an Environmental Assessment in accordance with §§ 1.1308 and 1.1311 if emissions from

the applicant's facility would exceed 1% of the exposure limit applicable to that facility. Renewal applicants whose facilities contribute radiation to an area not in compliance under paragraph (b) must submit an Environmental Assessment if their transmitter's contribution to the area of non-compliance exceeds 1% of the exposure limit applicable to that transmitter.

**Note 3:** Any of the exclusions from consideration under paragraph (b) noted

above may be superseded by actions taken by the Commission under the provisions of paragraph (c) or (d) of this section.

\* \* \* \* \*

Federal Communications Commission.  
**Donna R. Searcy,**  
*Secretary.*

[FR Doc. 93-1526 Filed 1-23-90; 8:45 am]

BILLING CODE 6712-01-M



# Proposed Rules

Federal Register

Vol. 55, No. 16

Wednesday, January 24, 1990

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 315

#### Career and Career-Conditional Employment

**AGENCY:** Office of Personnel Management.

**ACTION:** Proposed rulemaking.

**SUMMARY:** The Office of Personnel Management (OPM) proposes to issue regulations to correct a provision relating to a probationary employee's rights to appeal his or her termination to the Merit Systems Protection Board. The new regulations would expand one of the factors upon which an employee may base an appeal.

**COMMENT DATE:** Written comments will be considered if received no later than March 26, 1990.

**FOR FURTHER INFORMATION CONTACT:** Raleigh Neville, (202) 632-6817.

#### SUPPLEMENTARY INFORMATION:

Currently, OPM's regulations permit an employee to appeal a termination which the employee alleges was based on discrimination because of several factors, including physical handicap, if such discrimination is raised in addition to either (1) Discrimination based on partisan political reasons or marital status or (2) improper procedure. The term "physical handicap" is too narrow in view of the language used today to describe individuals with disabilities. OPM is, therefore, changing the phrase "physical handicap" to "handicapping condition".

#### EO 12291 Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

#### Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it only affects Federal employees.

## List of Subjects in 5 CFR Part 315

Government employees.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

Accordingly, OPM is amending part 315 of title 5, Code of Federal Regulations, as follows:

### PART 315—CAREER AND CAREER- CONDITIONAL EMPLOYMENT

1. The authority citation for part 315 is revised to read as follows:

**Authority:** 5 U.S.C. 1302, 3301, and 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218; §§ 315.601 and 315.609 also issued under 22 U.S.C. 3651 and 3652; §§ 315.602 and 315.604 also issued under 5 U.S.C. 1104, Pub. L. 95-454, sec. 3(5); § 315.603 also issued under 5 U.S.C. 8151, Pub. L. 93-416; § 315.605 also issued under E.O. 12034, 43 FR 1917, Jan. 13, 1978; § 315.606 also issued under E.O. 11219, 3 CFR 1964-1965 Comp., p. 303; § 315.607 also issued under 22 U.S.C. 2506, 93 Stat. 371, E.O. 12137, 22 U.S.C. 2506, 94 Stat. 2158; § 315.608 also issued under E.O. 12362, 47 FR 21231; § 315.610 also issued under 5 U.S.C. 3304(d), Pub. L. 99-586; § 315.710 also issued under E.O. 12596, 52 FR 17537; Subpart I also issued under 5 U.S.C. 3321, E.O. 12107.

2. Section 315.806(d) is revised to read as follows:

**§315.806 Appeal rights to the Merit Systems Protection Board.**

\* \* \* \* \*

(d) An employee may appeal to the Board a termination which the employee alleges was based on discrimination because of race, color, religion, sex, or national origin; or age, provided that at the time the employee was at least 40 years of age; or handicapping condition, only if such discrimination is raised in addition to one of the issues stated in paragraph (b) or (c) of this section.

[FR Doc. 90-1626 Filed 1-23-90; 8:45 am]

BILLING CODE 6325-01-M

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 51

[Docket Number FV-88-205]

#### Shelled Pistachio Nuts; Grade Standards

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule; modified.

**SUMMARY:** This action is a modification of the proposed rule published in the Federal Register on June 14, 1989. This action would establish the voluntary U.S. Standards for Grades of Shelled Pistachio Nuts. The California Pistachio Association, an industry group, has requested the development of the standards to provide a common trading language for this product. The Agricultural Marketing Service (AMS), in cooperation with industry, has the responsibility to develop and maintain current U.S. grade standards.

**DATES:** Comments by February 23, 1990.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in duplicate to the Standardization Section, Fresh Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, Room 2056 South Building, Washington, DC 20090-6456. Comments should make reference to the date and page number of this issue of the Federal Register and will be made available for public inspection in the above office during regular business hours.

**FOR FURTHER INFORMATION CONTACT:** Thomas G. Gambill, at the above address or call (202) 447-5024.

**SUPPLEMENTARY INFORMATION:** This proposed rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been designated as "nonmajor" under criteria contained therein.

Pursuant to the requirements set forth in the Regulatory Flexibility Act, the Administrator of AMS has determined that this action will not have a significant economic impact on a substantial number of small entities. This proposed rule for establishment of U.S. Standards for Grades of Shelled Pistachio Nuts will not impose substantial direct economic cost, recordkeeping, or personnel workload changes on small entities, and will not alter the market share or competitive position of these entities relative to large businesses. In addition, under the Agricultural Marketing Act of 1946 the application of these standards are voluntary, so members of the pistachio nut industry need not have their product



certified under these standards, thereby incurring no costs at all.

The proposed rule, United States Standards for Grades of Shelled Pistachio Nuts (7 CFR 51.2555-51.2562), was published in the Federal Register on June 14, 1989 (54 FR 25281-25283). The proposal was developed at the request of the California Pistachio Commission, a trade association representing a cross section of growers, shippers, and other industry members who market pistachios in the United States.

The U.S. pistachio nut industry began in California in the late 1960's and early 1970's with the planting of several thousand acres of pistachio trees. Production began in 1977 and the first true commercial harvest of 17.2 million pounds occurred in 1979. Since that time, U.S. production has increased dramatically. In 1974, Iran, Turkey, and Syria accounted for 96 percent of the world pistachio crop. Eight years later, the U.S. industry harvested 43.4 million pounds, a record 32 percent of world production. The U.S. harvest increased to 63.1 million pounds in 1984 and according to the California Pistachio Commission production is expected to grow to 92 million or more pounds in 1990.

The U.S. industry began working toward a uniform trading language in the form of industry standards as early as 1977. However, these standards were subject to frequent changes, were not used industry wide, and were not recognized internationally. In late 1981, the California Pistachio Commission formally asked the U.S. Department of Agriculture (USDA) to develop U.S. Standards for Grades of Pistachio Nuts in the Shell. A Final Rule was Published in the Federal Register and the United States Standards for Grades of Pistachio Nuts in the Shell (7 CFR 51.2540-51.2546) became effective on August 4, 1986.

In 1988, the California Pistachio Commission requested the USDA to develop U.S. Standards for Grades of Shelled Pistachio Nuts based on a proposal developed by their Grades and Standards Committee. According to the Commission, the demand for pistachio kernels is constantly increasing, both as a whole nutmeat or in a chopped form. At the onset of requesting U.S. standards for pistachio nuts in the shell, the Commission's intent was to eventually request the development of standards for shelled pistachios.

According to the California pistachio Commission, 1,721,755 pounds of nutmeats were imported from major countries in the crop year 1986-87. U.S. shipments (those nutmeats grown and harvested in the United States) included 3,881,074 pounds shipped domestically

in 628,560 pounds being exported for a total of 4,509,834 pounds. Thus, with an ever increasing volume of nutmeats and with the intent of developing a common trading language within the industry, the California pistachio Commission has requested the proposed U.S. Standards for Grades of Shelled pistachio Nuts.

The proposed standard published on June 14, 1989, would complement the internal (kernel) requirements for the inshell pistachios. The proposed standard was worded to the extent applicable with the same type language and provisions, including uniform grade nomenclature, as used in other USDA fresh products standards. The standard would apply to kernels which are raw, roasted, or in a salted state. Provisions would include grades, tolerances, application of tolerances, sizes, definitions, qualifying terms and average moisture content. The standard would provide for three grades, U.S. Fancy, U.S. No. 1, and U.S. No. 2. In addition to providing tolerances for damage, serious damage, and foreign material in each of the three grades, four different size designations have been created for whole kernels, whole and broken kernels, large pieces, and small pieces.

The 60-day comment period ended August 14, 1989 and a total of 8 timely comments were received concerning the proposal and 1 comment was received after the due date.

Five responses were completely in favor of the proposal. The comments were from a grower/distributor, a trade association, and from Federal-State Inspection Service Supervisors.

Of the other comments, one grower was in favor of the proposal but requested a further explanation of the definition of rancidity in connection with staleness of flavor. The grower's concern was due to a typographical error in the Federal Register concerning that paragraph. A correction was printed in a later issue (FR Vol. 54, No. 139 published Friday, July 21, 1989, page 30632) which clarifies the definition of rancidity. Therefore, no further change to the proposal is deemed necessary.

Two responses received from Federal-State Inspection Service Supervisors were in favor of the proposal except for § 51.2561 "Qualifying Terms" which defined "salted," "roasted," and "raw." They questioned the desirability of making such a certification. The U.S. Standards for Grades of Shelled Pistachio Nuts were developed so that they could be applied to nuts in any state, however, it was never intended that the standards be used as a means to determine and certify whether the nuts were raw or that they had actually

been salted or roasted. AMS has considered this and agrees. Therefore, these qualifying terms have been eliminated.

In addition, AMS has decided to modify the proposed rule to further define the size classifications in § 51.2559. In reviewing the proposed rule it was discovered that the size classifications were somewhat incomplete. For example, the size classification entitled "whole and Broken Kernels" has no definition for a broken kernel. In order that the size classifications maintain a consistency in their description this classification has been renamed "Whole and Pieces" and a definition of the word "pieces" has been added to § 51.2560 Definitions.

In addition no minimum classification was designated as a requirement for any of the grades. A receiver could order a lot of U.S. Fancy nutmeats expecting whole kernels yet be shipped small pieces. Therefore to eliminate any misunderstanding, all grades will be required to meet the size classification of "Whole Kernels", unless otherwise specified. This added basic requirement further standardizes and strengthens the grades. However, it does not limit the grades because any other size may be specified in connection with the grade.

Also, both pieces size classifications, "Large Pieces" and "Small Pieces", provide no tolerance for an occasional whole kernel being present in the lot; one whole kernel could cause an entire "pieces" lot to fail to meet the size requirements. Therefore, to address this concern, AMS has added a three percent tolerance for whole kernels to each "pieces" grade.

Lastly, no provision was made for lots which did not meet any of the four size classifications. If a lot had 30 percent whole kernels and the remainder pieces it would not fit into any size classification. Consequently, a fifth section has been added to the size classification to allow any specified combination of whole kernels and pieces. Not more than 5 percent of the total sample would be allowed to pass through a 5/64 inch round opening.

AMS, in cooperation with industry, has the responsibility to develop and improve standards of quality, condition, grade, and packaging in order to encourage uniformity and consistency in commercial practices. The proposed rule has been reviewed for need, currentness, clarity and effectiveness as part of a periodic review. This action would provide standards in accordance with the provisions of the Agricultural Marketing Act of 1946 (7 USC 1621 *et seq.*) so that the agricultural products



would be marketed to the best advantage, that trading would be facilitated and the consumers would be able to obtain the quality product they desire.

The following are the proposed voluntary United States Standards for Grades of Shelled pistachio Nuts.

#### List of Subjects in 7 CFR Part 51

Fresh fruits, vegetables, and other products (inspection, certification, and standards).

#### PART 51—[AMENDED]

For reasons set forth in the preamble, it is proposed that 7 CFR part 51 is amended as follows: 1. The authority citation for 7 CFR part 51 continues to read as follows:

Authority: Secs. 203, 205, 6 Stat. 1087, as amended, 1090 as amended; 7 U.S.C. 1622, 1624, unless otherwise noted.

2. By adding a new subpart, Subpart—United States Standards for Grades of Shelled pistachio Nuts, as follows:

\* \* \* \* \*

#### United States Standards for Grades of Shelled Pistachio Nuts

Sec.	
51.2555	General.
51.2556	Grades.
51.2557	Tolerance.
51.2558	Application of tolerances.
51.2559	Size classifications.
51.2560	Definitions.
51.2561	Average moisture content.

#### § 51.2555 General.

(a) Compliance with the provisions of these standards shall not excuse failure to comply with provisions of applicable Federal or State laws.

(b) These standards are applicable to pistachio kernels which may be in a raw, roasted, or salted state; or in any combination thereof. However, nuts of obviously dissimilar forms shall not be commingled.

#### § 51.2556 Grades.

(a) "U.S. Fancy," "U.S. No. 1," and "U.S. No. 2" consist of pistachio kernels which meet the following basic requirements:

(1) Well dried, or very well dried when specified in connection with the grade.

(2) Free from:

(i) Foreign material, including in-shell nuts, shells, or shell fragments.

(3) Free from damage by:

(i) Minor mold;

(ii) Immature kernels;

(iii) Spotting; and,

(iv) Other defects.

(4) Free from serious damage by:

(i) Mold;

(ii) Minor insect or vertebrate injury;

(iii) Insect damage;

(iv) Rancidity;

(v) Decay; and,

(vi) Other defects.

(5) Unless otherwise specified, kernels shall meet the size classification of Whole Kernels (See section 51.2559).

#### § 51.2557 Tolerances.

(a) In order to allow for variations incident to proper grading and handling, the tolerances, by weight, in Table I are provided.

Table I

Factors (Tolerances by weight)	U.S. fancy	Percent	
		U.S. No. 1	U.S. No. 2
(a) Damage .....	2.0	2.5	3.0
(b) Serious Damage .....	1.5	2.0	2.5
(1) Insect Damage (included in (b)) .....	.3	.4	.5
(c) Foreign Material .....	.03	.05	.1

#### § 51.2558 Application of tolerances.

The tolerances for the grades apply to the entire lot and shall be based on a composite sample representative of the lot. Any container or group of containers which have kernels obviously different in quality or size from those in the majority of containers shall be considered a separate lot and shall be sampled separately.

#### § 51.2559 Size classifications.

(a) The size of pistachio kernels may be specified in connection with the grade in accordance with one of the following size classifications.

(1) *Whole Kernels*: 80 percent or more by weight shall be whole kernels and not more than 5 percent of the total sample shall pass through a 16/64 inch round opening, including not more than 1 percent of the total sample shall pass through a 5/64 inch and round opening.

(2) *Whole and Pieces*: 40 percent or more by weight shall be whole kernels and not more than 15 percent of the total sample shall pass through a 16/64 inch round opening, including not more than 2 percent of the total sample shall pass through a 5/64 inch round opening.

(3) *Large Pieces*: Portions of kernels of which not more than 10 percent will remain on a 24/64 inch round opening, provided that not more than 20 percent of the total sample shall pass through a 16/64 inch round opening, including not more than 2 percent of the total sample shall pass through a 5/64 inch round

opening. Not more than 3 percent of the total sample shall be whole kernels.

(4) *Small Pieces*: Portions of kernels of which not more than 10 percent will remain on a 16/64 inch round opening, provided that not more than 3 percent of the total sample shall pass through a 5/64 inch round opening. Not more than 3 percent of the total sample shall be whole kernels.

(5) *Mixed sizes*: Means a mixture of any combination of whole kernels or pieces. The percentage of whole kernels and/or pieces may be specified. Not more than 5 percent of the total sample shall pass through a 5/64 inch round opening.

#### § 51.2560 Definitions.

(a) "Well dried" means the kernel is firm and crisp.

(b) "Very well dried" means the kernel is firm and crisp and the average moisture content of the lot does not exceed 7 percent or lower levels, if specified (See § 51.2562).

(c) "Foreign material" means leaves, sticks, in-shell nuts, shells or pieces of shells, dirt, or rocks, or any other substance other than pistachio kernels. No allowable tolerances for metal or glass.

(d) "Whole kernel" means 3/4 of a kernel or more.

(e) "Pieces" means less than 3/4 of a kernel.

(f) "Damage" means any specific defect described in paragraph f (1) through (3) of this section or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which materially detracts from the appearance or the edible or marketing quality of the individual kernel or of the lot. (For tolerances, see § 51.2557, Table I).

(1) "Minor white or gray mold" is mold that is not readily noticeable on the kernel and which can be easily rubbed off with the fingers.

(2) "Immature kernels" are excessively thin kernels.

(3) "Kernel spotting" refers to dark brown or dark gray spots aggregating more than one-eighth of the surface of the kernel.

(4) "Serious damage" means any specific defect described in paragraph f (1) through (5) of this section, or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which seriously detracts from the appearance or the edible or marketing quality of the individual kernel or of the lot. (For tolerances see § 51.2557 Table I).

(5) "Mold" which is readily visible on the kernel.



(2) "Minor insect or vertebrate injury" means the kernel shows conspicuous evidence of feeding on the kernel.

(3) "Insect damage" is an insect, insect fragment, web, or frass attached to the kernel. No live insects shall be permitted.

(4) "Rancidity" means the kernel is distinctly rancid to taste. Staleness of flavor shall not be classed as rancidity.

(5) "Decay" means any portion of the kernel is decomposed.

#### § 51.2561 Average Moisture Content

(a) Determining average moisture content of the lot is not a requirement of the grades, except when kernels are specified as "very well dried." It may be carried out upon request in connection with grade analysis or as a separate determination.

(b) Kernels shall be obtained from a randomly drawn composite sample. Official certification shall be based on the air-oven method or other officially approved methods or devices. Results obtained by methods or devices not officially approved may be reported and shall include a description of the method or device and owner of any equipment used.

Dated: January 19, 1990.

Daniel Haley,

Administrator.

[FR Doc. 90-1617 Filed 1-23-90; 8:45 am]

BILLING CODE 3410-02-M

### Food Safety and Inspection Service

#### 9 CFR Part 310

[Docket No. 86-012C]

RIN 0583-AA48

#### Use of Air During Slaughter Operations Correction

**AGENCY:** Food Safety and Inspection Service, USDA.

**ACTION:** Proposed rule; opportunity for comment period.

**SUMMARY:** The Food Safety and Inspection Service (FSIS) is proposing to allow the use of compressed air in the abdominal cavity of swine to facilitate skinning operations and to minimize the loss of body fat. This provision was inadvertently omitted in the proposed rule and the final rule of the same title published respectively on January 13, 1989 (54 FR 1370) and September 5, 1989 (54 FR 36755) by FSIS. The final rule amended the Federal meat inspection regulations to provide for the approval of several procedures which have been field tested and found acceptable for the inflation of carcasses and parts of

carcasses with compressed air injected during dressing operations to facilitate head skinning and the removal of hides and foot hair. A provision allowing the injection of compressed air into swine was discussed in the preamble of the proposed and experimental basis, during the dressing operation and was intended to be included in the regulation. This proposal would serve to add this provision to the rule and to allow an opportunity for comment.

**DATE:** Comments must be received on or before February 23, 1990.

**ADDRESS:** Written comments to: Policy Office, Attn: Linda Carey, FSIS Hearing Clerk, Room 3171, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.

#### FOR FURTHER INFORMATION CONTACT:

Dr. Jill Hollingsworth, Director, Slaughter Inspection Standards and Procedures Division, Science and Technology Program, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250 447-3219.

#### SUPPLEMENTARY INFORMATION:

##### Comments

Interested persons are invited to submit comments in response to this action. Written comments should be sent to the Policy Office. Please include the docket number that appears in the heading of this document. Comments submitted will be available for public inspection in the Policy Office between 9:00 a.m. and 4:00 p.m., Monday through Friday.

##### Background

On September 5, 1989, FSIS published a final rule (54 FR 36755), which allowed permanent approval of those compressed air injection activities listed in the preamble. Following publication of the final rule, it was found that one air injection activity concerning the injection of air into the abdominal cavity of swine to facilitate the skinning operation, which was discussed in the preamble, was inadvertently left out of both the final and proposed rules. This document serves to propose this provision and to provide an opportunity for comment. The added paragraph (a)(2)(iv)(D) under part 310 is published below in its entirety.

Done at Washington, DC, on: December 8, 1989.

Lester M. Crawford,

Administrator, Food Safety and Inspection Service.

Accordingly, it is proposed to amend 9 CFR part 310 as follows:

### PART 310—POST MORTEM INSPECTION

1. The authority citation for part 310 continues to read as follows:

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 564, 84 Stat. 91, 438; 21 U.S.C. 71 *et seq.*, 601 *et seq.*, 33 U.S.C. 1254(b).

2. Section 310.13 is amended by adding paragraph (a)(2)(iv)(D) to read as follows:

§ 310.13 Inflating carcasses or parts thereof; transferring caul or other fat.

(a) \* \* \*

(2) \* \* \*

(iv) \* \* \*

(D) Compressed air injected into the abdominal cavity of swine to facilitate the skinning operation and to minimize the loss of body fat.

[FR Doc. 90-1612 Filed 1-23-90; 8:45 am]

BILLING CODE 3410-DM-M

### DEPARTMENT OF THE TREASURY

#### Customs Service

#### 19 CFR Parts 12, 24, and 133

RIN 1515-AA81

#### Enforcement of Protection of Semiconductor Chip Products; Patent Surveys

**AGENCY:** U.S. Customs Service, Department of the Treasury.

**ACTION:** Proposed rule; correction; extension of comment period.

**SUMMARY:** A document was published in the Federal Register on October 4, 1989 (54 FR 40882), proposing, in pertinent part, to amend the Customs Regulations to enable persons seeking protection from infringing semiconductor chip products (mask works) to obtain the assistance of Customs in preventing pirated chips from being imported into the U.S. Further, the section dealing with patent import surveys would be shifted to the Part entitled "Trademarks, Trade Names and Copyrights", which would then be retitled "Trademarks, Trade Names, Copyrights, Mask Works and Patents."

This document corrects an error that appears in that document relating to information collection under the Paperwork Reduction Act, and extends the period of time within which interested members of the public may submit comments concerning the proposed rulemaking.

**DATE:** Comments must be submitted on or before March 26, 1990.



**ADDRESS:** Comments may be submitted to and inspected at the Regulations and Disclosure Law Branch, U.S. Customs Service, Room 2119, 1301 Constitution Ave., NW., Washington, DC 20229. All comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), between 9:00 a.m. and 4:30 p.m. on normal business days, at the address above.

**FOR FURTHER INFORMATION CONTACT:** Russell Berger, Regulations and Disclosure Law Branch, (202)-566-8237.

**SUPPLEMENTARY INFORMATION:**

**Background**

A document published in the Federal Register on October 4, 1989 (54 FR 40882), proposed, in significant part, to amend the Customs Regulations to enable persons seeking protection from infringing semiconductor chip products (mask works) to obtain the assistance of Customs in preventing pirated chips from being imported into the U.S. This would give rise to a process of Customs recordation of mask works similar to that for copyrights in part 133, Customs Regulations (19 CFR part 133).

This proposed remedy would be in addition to, and not in lieu of, the mask work owner's other rights and remedies, such as the right to attempt to secure an injunction against importation from a district court or an exclusion order from the U.S. International Trade Commission (USITC). These latter protections, which are currently afforded mask work owners in § 12.39(d), Customs Regulations (19 CFR 12.39(d)), would thus be expanded upon and included in part 133. Also, for purposes of administrative convenience and consolidation, § 12.39 a covering "patent import surveys", would be transferred into part 133.

Comments on the proposed rulemaking were to have been received on or before December 4, 1989. Customs has, however, received a number of requests to extend the period of time for comments, the requesters stating that they need additional time in order to give the proposed careful and complete review. Customs believes, under the circumstances, that these requests have merit. Accordingly, the period of time for the submission of comments is being extended as indicated.

Furthermore, the information collection aspects of the proposal as set forth in the document under "PAPERWORK REDUCTION ACT" omitted reference to certain regulations

which also involve information collection.

**Correction**

On page 40883 of the document, the first sentence of the second paragraph under "Paperwork Reduction Act" should read as follows:

**Paperwork Reduction Act**

\* \* \* \* \*

The collection of information in this regulation is in §§ 133.52, 133.53, q133.55, 133.56 and 133.81. \* \* \*

Dated: January 17, 1990.

Carol Hallett,

Commissioner of Customs.

[FR Doc. 90-1551 Filed 1-23-90; 8:45 am]

BILLING CODE 4820-02-M

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

**21 CFR Part 341**

[Docket No. 76 N-052 G]

RIN 0905-AA06

**Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products for Over-the-Counter Human Use; Reopening of Record for Receipt of Comments Regarding the Marketing Status of Combination Drug Products Containing Promethazine Hydrochloride; Extension of Comment Period**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of proposed rulemaking; extension of comment period.

**SUMMARY:** The Food and Drug Administration (FDA) is extending to May 29, 1990, the period for comments on the reopening of the administrative record for the proposed rulemaking for over-the-counter (OTC) cold, cough, allergy, bronchodilator, and antiasthmatic (cough-cold) combination drug products to accept additional comments and data concerning combination drug products containing promethazine hydrochloride. This action responds to a request to extend the comment period for an additional 120 days to allow sufficient time to submit additional information pertinent to the marketing status of combination drug products containing promethazine hydrochloride.

**DATE:** Written comments by May 29, 1990.

**ADDRESS:** Written comments to the Dockets Management Branch (HFA-

305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** William E. Gilbertson, Center for Drug Evaluation and Research (HFD-210), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8000.

**SUPPLEMENTARY INFORMATION:** In the Federal Register of November 28, 1989 (54 FR 48914), FDA issued a notice reopening the administrative record for the rulemaking on OTC cough-cold combination drug products to allow for additional comments on the agency's decision not to allow promethazine-containing combination drug products for use in treating the symptoms of the common cold to be marketed OTC at this time, which was published in the Federal Register of September 5, 1989 (54 FR 36762). A significant part of the agency's decision not to allow the OTC marketing of these promethazine-containing drug products was based on the recommendations of the Pulmonary-Allergy Drugs Advisory Committee made at its July 31, 1989, meeting. As noted in the November 28, 1989, notice, the administrative record for the proposed rule on OTC cough-cold combination drug products had several closing dates: August 14, 1989, for the submission of new data and October 12, 1989, for the submission of comments on the new data submitted. Because the advisory committee's recommendations were not made until July 31, 1989, and the agency's decision was not announced until September 5, 1989, the agency reopened the administrative record to allow additional time for further public comment and to accept any additional available data relating to the marketing status of combination cough-cold drug products containing promethazine hydrochloride. Interested persons were given until January 29, 1990, to submit comments and data.

In response to the notice reopening the administrative record, Wyeth-Ayerst Laboratories requested a 120-day extension of the comment period to allow sufficient time for the submission of additional information which the company believes is essential for FDA to make a proper and informed decision regarding the ultimate marketing status of combination drug products containing promethazine hydrochloride. The company concluded that the 60-day comment period would not allow sufficient time for the collection, preparation, and submission of appropriate additional information that



is pertinent to the rulemaking proceeding.

FDA has carefully considered the request. The agency believes that, because of the number of issues raised at the advisory committee's meeting, allowing additional time for the submission of comments and additional data addressing these issues would enable the agency to more fully evaluate and review all information pertaining to the marketing status of cough-cold combination drug products containing promethazine hydrochloride and would be in the public interest. Thus, the agency considers an extension of the comment period for 120 days for information concerning this subject only to be appropriate. The non-OTC marketing status of promethazine-containing combination drug products announced on September 5, 1989, is not affected by this extension of time. Further, this extension will not delay completion of the rulemaking for OTC cough-cold combination drug products.

Interested persons may, on or before May 29, 1990, submit to the Dockets Management Branch (address above) written comments on the OTC marketing of promethazine-containing cough-cold combination drug products. Three copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 16, 1990.

Alan L. Hoeting,

Acting Associate Commissioner for  
Regulatory Affairs.

[FR Doc. 89-1567 Filed 1-23-90; 8:45 am]

BILLING CODE 4160-01-M

## DEPARTMENT OF THE INTERIOR

### Minerals Management Service

#### 30 CFR Part 256

RIN 1010-AB38

#### Outer Continental Shelf Minerals and Rights-of-Way Management; Surety Bond Coverage

**AGENCY:** Minerals Management Service,  
Interior.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would amend the provisions of part 256 of title 30 of the Code of Federal Regulations (CFR) to increase the amount of surety bond coverage required of lessees, operators, or assignees prior to the

commencement of exploration and prior to the commencement of development and to require that bonds be issued by a surety that is certified by the U.S. Department of the Treasury. The proposed rule would also identify with greater specificity the parties responsible for furnishing the required bond coverage prior to the Minerals Management Service's (MMS) approval of a lease transfer and assignment. These revisions are being proposed because the current level of bond coverage was established about 20 years ago and is clearly insufficient to cover increased costs of compliance with the conditions and terms of a lease in the event of a significant default.

**DATE:** Comments must be hand delivered or postmarked no later than March 26, 1990.

**ADDRESS:** Written comments must be mailed or hand delivered to the Department of the Interior; Minerals Management Service; 381 Elden Street; Mail Stop 646; Herndon, Virginia 22070-4817; Attention: Gerald D. Rhodes.

**FOR FURTHER INFORMATION CONTACT:** Gerald D. Rhodes, Telephone (703) 787-1600.

**SUPPLEMENTARY INFORMATION:** In proposing these amendments to the regulations governing the issuance and maintenance of OCS oil and gas leases, MMS is fulfilling its obligations under the OCS Lands Act (OCSLA) to prescribe such rules and regulations as may be necessary to carry out the provisions of that Act (43 U.S.C. 1334). Accordingly, lessees are required to furnish a corporate surety bond "conditioned on compliance with all the terms and conditions of the lease." (30 CFR 256.58). Section 8 of OCS oil and gas leases provides that:

The lessee shall maintain at all times the bond(s) required by regulations prior to the issuance of the lease and shall furnish such additional security as may be required by the lessor, if after operations have begun, the lessor deems such additional security to be necessary.

Among the more significant regulatory requirements and conditions of OCS oil and gas leases in terms of financial obligations are those governing royalty payments and well abandonment and site clearance provisions requiring clearance of the lease premises within 1 year after the expiration of the lease. A National Academy of Sciences study commissioned by MMS in 1985 estimates that removal costs in the Gulf of Mexico of smaller, comparatively light-weight structures in relatively shallow water could range up to \$400,000. These costs increase with water depth and the size and complexity

of the structure. Removal and site clearance costs are estimated to be at least \$15 million for individual deepwater structures. The amount of surety bond coverage (\$50,000 per lease or \$300,000 per OCS area) required by current regulations was established about 20 years ago and is clearly insufficient to cover the costs to the lessor in the event of a default by a lessee, particularly a default with respect to compliance with well abandonment, platform removal, and site clearance requirements.

In light of the amount of these potential liabilities for abandonment and lease cleanup costs, and the costs of other operations undertaken in the exploration, development, and production of OCS oil and gas leases, MMS believes that an increase in the amount of the surety bonds required of OCS oil and gas lessees is in order. The proposed rule would remedy this situation by adding two new tiers to current bonding requirements which would become applicable when a lessee submits an Exploration Plan for MMS approval and when a lessee submits a Development and Production Plan or a Development Operations Coordination Document submitted prior to or in association with an Exploration Plan unless the lessee furnishes and maintains a \$1,000,000 areawide bond. A \$500,000 lease bond would have to be submitted prior to or in association with a Development and Production Plan or a Development Operations Coordination Document, unless the lessee furnishes and maintains a \$3,000,000 areawide bond. These increased amounts for bond coverage would apply to all leases as Exploration Plans and Development and Production Plans or Development Operations Coordination Documents are submitted for review and approval.

Other changes being proposed are intended to assure that in cases where there is an assignment by lessees of lease operating rights or record title interests, procedures are established to assure that adequate surety bond coverage is furnished and maintained by the assignee.

The MMS also is considering additional measures to provide assurance of payment of costs associated with well abandonment and site clearance. Comments and recommendations are requested on the requirement that sureties be certified by the U.S. Treasury as well as the following:

Further rulemaking to replace the provisions of proposed § 256.61(b) with a provision for a variable bond that would increase as a percent of the total investment



in exploration or development and production structures on the lease:

Alternative forms of securities that could be pledged against obligations of the lessee in lieu of providing a bond; and Legislation to create a new trust fund to be subscribed to by all lessees to pay for costs of well abandonment and site clearance in the event that a lessee, through bankruptcy or other similar action, is unable to pay for such costs.

Finally, MMS is proposing that the surety bonds be limited to bonds obtained from sureties included in the U.S. Department of the Treasury Circular 570. Circular 570 lists companies designated by the U.S. Department of the Treasury as acceptable sureties and reinsurers on Federal bonds. Copies of Circular 570 may be obtained from Surety Bond Branch; Financial Management Service; Department of the Treasury; Washington, DC 20227. Telephone: (202) 287-3921.

The Department of the Interior (DOI) has determined that this rule does not meet any of the criteria for a major rule under Executive Order 12291.

#### Paperwork Reduction

This proposed rule does not contain new information collection requirements which require approval by the Office of Management and Budget (OMB) under 44 U.S.C. 501 *et seq.* The information collection requirements under 30 CFR part 256 are approved by OMB under project No. 1010-0006.

#### Regulatory Flexibility Act

The DOI has determined that this document will not have a significant effect on a substantial number of small entities because, in general, the entities that engage in activities offshore are not considered small due to the technical and financial resources necessary to conduct such activities.

#### Takings Implication Assessment

The DOI certifies that the rule does not represent a Government action capable of interference with constitutionally protected property rights; thus, a takings implication assessment has not been prepared pursuant to Executive Order 12630, Government Action and Interference with Constitutionally Protected Property Rights.

#### National Environmental Policy Act of 1969

DOI determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment; therefore, an Environmental Impact Statement is not required.

#### Author

The principal author of the proposal is Mary B. McDonald.

#### List of Subjects in 30 CFR Part 256

Administrative practice and procedure, Continental shelf, Government contracts, Oil and gas exploration, Pipelines, Public lands—mineral resources, Public lands—rights-of-way, Reporting and recordkeeping requirements, Surety bonds.

Dated: November 28, 1989.

Barry Williamson,

Director, Minerals Management Service.

For the reasons set forth above, part 256 of title 30 of the Code of Federal Regulations is proposed to be amended as follows:

#### PART 256—OUTER CONTINENTAL SHELF MINERALS AND RIGHTS-OF-WAY MANAGEMENT, GENERAL

1. The authority citation for part 256 is revised to read as follows:

Authority: Sec. 204, Pub. L. 95-372, 92 Stat. 629 (43 U.S.C. 1334).

2. In § 256.58, paragraphs (a) and (e) are revised to read as follows:

##### § 256.58 Acceptable bonds.

(a) The successful bidder, prior to the issuance of an oil and gas or sulphur lease, shall furnish the Regional Director a corporate surety bond in the amount of \$50,000 conditioned on compliance with all the terms and conditions of the lease. A \$50,000 lease surety bond need not be submitted and maintained if the bidder furnishes and maintains a bond in the sum of either \$1,000,000 or \$3,000,000 as provided in § 256.61 (a) and (b) of this part issued by a qualified surety and conditioned on compliance with all the terms and conditions of oil and gas and sulphur leases held by the bidder on the OCS for the area in which the lease to be issued is situated.

\* \* \* \* \*

(e) If any bond has been reduced by any amount as the result of payment for default, a new bond in at least the amount of the original face value of the reduced bond shall be posted within 6 months or such shorter period as the authorized officer may direct after a default. If the reduced bond is an individual lease bond, it may be replaced by a \$1,000,000 or \$3,000,000 bond as provided in § 256.61 (a) and (b) of this part. Failure to post a new bond shall, at the discretion of the authorized officer, be the basis of cancellation of all leases covered by the defaulted bond, except to the extent that separate bonds in lieu of \$1,000,000 or \$3,000,000 bonds

have been filed within the time authorized.

\* \* \* \* \*

3. Section 256.59 is revised to read as follows:

##### § 256.59 Bond form/surety requirements.

All bonds furnished by a bidder, lessee, or operator shall be on a form or in a form approved by the Director. Bonds required by this part and submitted after [insert the effective date of this rule] shall be issued by a qualified surety certified by the U.S. Department of the Treasury as an acceptable surety on Federal bonds and listed in the current U.S. Department of the Treasury Circular No. 570.

4. Section 256.61 is revised to read as follows:

##### § 256.61 Additional bonds.

(a) A corporate surety bond in the amount of \$200,000 conditioned on compliance with all the terms and conditions of the lease issued by a qualified surety shall be furnished to the Regional Director by the applicant for approval of a proposed Exploration Plan. Review of an Exploration Plan for approval shall be conditioned upon receipt of such additional surety bond. However, a \$200,000 lease bond need not be submitted and maintained if the lessee furnishes and maintains a bond in the sum of \$1,000,000 (or \$3,000,000 pursuant to paragraph (b) of this section) issued by a qualified surety and conditioned on compliance with all the terms and conditions of all oil and gas and sulphur leases held by the lessee on the OCS for the area in which the lease is situated.

(b) A bond in the amount of \$500,000 conditioned on compliance with all the terms and conditions of the lease issued by a qualified surety shall be furnished to the Regional Director by the applicant for approval of a proposed Development and Production Plan or a proposed Development Operations Coordination Document. This additional bond may be provided by submission of a new bond or by increasing the bond coverage provided under paragraph (a) of this section. Review of a Development and Production Plan or of a Development Operations Coordination Document for approval shall be conditioned on receipt of such additional surety bond. However, a \$500,000 lease bond need not be submitted and maintained if the lessee furnishes and maintains a bond in the sum of \$3,000,000 issued by a qualified surety and conditioned on compliance with all the terms and conditions of all oil and gas and sulphur



leases held by the lessee on the OCS for the area in which the lease is situated.

(c) The Regional Director may require additional security (i.e., an additional surety bond or other security over and above the amounts prescribed in §§ 256.58(a) and 256.61 (a) and (b) of this part) in the form of a supplemental bond or bonds or to increase the coverage of an existing surety bond if, after operations or production have begun, such additional security is deemed necessary to cover costs and liabilities of the lessee for abandonment of wells, removal of platforms, and clearance of equipment and facilities from the lease once production ceases and the lease expires.

5. In § 256.62, paragraph (e) is revised to read as follows:

**§ 256.62 Assignment of leases or interests therein.**

(e) The assignee shall be liable for all obligations under the lease subsequent to the effective date of an assignment, and shall comply with all regulations issued under the Act including the requirement to furnish surety bonds as specified in OCS leases and §§ 256.58 and 256.61 of this part unless the assignor agrees to continue to provide the required bond coverage and documentation of the assignor's acceptance of continued responsibility for this obligation is provided. In the absence of a documented commitment by the assignor to remain liable and the submission of the required surety bond coverage by the assignor, MMS approval of an assignment will not be given until the assignee submits evidence of an acceptable level of surety bond coverage pursuant to the provisions of §§ 256.58 and 256.61 of this part.

[FR Doc. 90-1556 Filed 1-23-90; 8:45 am]

BILLING CODE 4310-MR-M

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[FRL-3716-7]

**Approval and Promulgation of Implementation Plans; Ohio**

**AGENCY:** U.S. Environmental Protection Agency (USEPA).

**ACTION:** Proposed rulemaking.

**SUMMARY:** USEPA is proposing to disapprove a site-specific revision to the ozone portion of the Ohio State Implementation Plan (SIP). This revision is an extended compliance schedule for volatile organic compounds (VOC)

emissions from miscellaneous metal parts/products coating lines at the Goodyear Tire and Rubber, Metal Products Division (Goodyear) located in Summit County, Ohio.

USEPA today is proposing to disapprove this SIP revision because this source is located in an area (Summit County) lacking a current federally approved ozone attainment demonstration. Under USEPA's SIP revision policy, sources which are located in areas lacking current federally approved ozone attainment demonstrations cannot be considered for relaxations until the SIP has been revised to demonstrate attainment and maintenance of the national ambient air quality standard (NAAQS) for ozone. In addition, the State must demonstrate that reasonable further progress (RFP) will be maintained in the area.

**DATE:** Comments on this revision and on the proposed USEPA action must be received by February 23, 1990.

**ADDRESSES:** Copies of the SIP revision are available at the following addresses for review: (It is recommended that you telephone Uylaine E. McMahan, at (312) 886-6031, before visiting the Region V office.)

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch (5AR-26), 230 South Dearborn Street, Chicago, Illinois 60604.

Ohio Environmental Protection Agency, Office of Air Pollution Control, 361 East Broad Street, Columbus, Ohio 43216.

Comments on this proposed rule should be addressed to: (Please submit an original and six copies if possible) Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR-26), USEPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

**FOR FURTHER INFORMATION CONTACT:** Uylaine E. McMahan, (312) 886-6031.

**SUPPLEMENTARY INFORMATION:** On November 19, 1982, OEPA submitted a proposed site-specific VOC revision to its ozone SIP for a miscellaneous metal parts/products coating line (K001), which is located at Goodyear's facility in Summit County, Ohio. The proposed revision consists of a compliance date extension to July 31, 1983, from the final compliance date of December 31, 1982, contained in the Ohio Administrative Code (OAC) Rule 3745-21-04(C)(28).

Under the existing federally approved SIP, the metal parts/products coating line (K001) at Goodyear is subject to the emission limit of 3.5 pounds of VOC per gallon of coating contained in OAC Rule 3745-21-09(U).

USEPA approved Ohio's Reasonably Available Control Technology (RACT) I and RACT II rules as meeting the Clean Air Act RACT requirements on October 31, 1980 (45 FR 72122), and June 29, 1982 (47 FR 28097), respectively. In lieu of the requirements mentioned above, OEPA has requested a site-specific SIP revision comprised of an extended compliance schedule for Goodyear.

**SIP Revision and Compliance Date Extension Policy**

USEPA's July 29, 1983, SIP revision policy memorandum entitled "Source Specific SIP Revisions" from Sheldon Meyers, Director of the Office of Air Quality Planning and Standards, contains the criteria for evaluating VOC SIP revisions for sources in areas lacking an approved SIP. This policy requires the State to demonstrate that the extension will not interfere with the timely attainment and maintenance of the ozone standard and, where relevant "reasonable further progress" (RFP) towards timely attainment. These criteria have been addressed in USEPA's technical support documents. A more detailed discussion of the rationale for proposing disapproval of a State submission and of the Clean Air Act and USEPA policy related to compliance date extensions appears in Appendix A of the proposed rulemaking published on November 8, 1988, at 53 FR 45103.

**Criterion 1**

Sources which are located in areas lacking current federally approved ozone attainment demonstrations cannot be considered for relaxations until the SIP has been revised to demonstrate attainment and maintenance of the NAAQS for ozone.

Summit County is an area lacking a current federally approved ozone attainment demonstration, and, therefore, cannot be considered for a relaxation of the SIP at this time. On February 24, 1984, the USEPA notified the Governor of Ohio pursuant to section 110(a)(2)(H) of the Clean Air Act, that the Ohio SIP was inadequate to achieve the NAAQS for ozone in Summit County. The basis for the finding of inadequacy and USEPA's conclusion that, even though this area was covered by a fully approved part D Plan which was to assure attainment of the ozone NAAQS by December 31, 1982, Summit County had monitored exceedances in 1981, 1982, and 1983. In 1983, a Notice of SIP deficiency was issued based on the monitored exceedances 1981 and 1982. Summit County is still experiencing ozone



NAAQS violations. In the SIP inadequacy letter, USEPA called upon the State to cure the inadequacies by revising the SIP within 1 year from the date of the letter. To date, although Ohio submitted a revised SIP, the State of Ohio does not have a re-approved SIP for Summit County that cures the inadequacies previously identified by USEPA. Finally, on May 28, 1988, USEPA notified the Governor of Ohio, through issuance of a SIP call, that, in light of air quality data available subsequent to Ohio's formulation of the ozone plan for this area, the ozone SIP for the Cleveland-Akron-Lorain area, including Summit County, is substantially inadequate to assure the attainment of the ozone NAAQS. The State has very recently submitted the required RACT rules. However, in light of the new data reflected in the SIP call, the SIP submitted to date is not approvable. In a separate notice, USEPA will be addressing the deficiencies associated with the State of Ohio's proposed 1982 Ozone SIP revision. Accordingly, at no time since the State submitted the Goodyear SIP revision to USEPA has the State submitted an approvable SIP for this area.

#### Criterion 2

The State must demonstrate that RFP will be maintained in the area.

Because Ohio does not have an approved current ozone attainment demonstration for Summit County, there is no yardstick against which RFP toward attainment of the ozone NAAQS can be measured.

Based on these deficiencies, USEPA is proposing to disapprove a SIP revision request for the Goodyear Metal Products Division in Summit County, Ohio.

USEPA is providing a 30-day comment period on this notice of proposed rulemaking. Public comments received on or before February 23, 1990 will be considered in USEPA's final rulemaking. All comments will be available for inspection during normal business hours at the Region V office address provided at the front of this notice.

Under 5 U.S.C. 605(b), I certify that this SIP disapproval will not have a significant economic impact on a substantial number of small entities, because the effect of this disapproval is to leave in effect existing emission limitations. Therefore, there is no change or any impact on any source or community. It also applies to only one source, Goodyear.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review.

#### List of Subjects in 40 CFR Part 52

Air pollution control, Ozone.

Authority: 42 U.S.C. 7401-7642.

Dated: March 31, 1987.

Peter Wise,

Acting Regional Administrator.

Editorial Note: This document was received at the Office of the Federal Register January 19, 1990.

[FR Doc. 90-1585 Filed 1-23-90; 8:45 am]

BILLING CODE 6580-50-M

#### 40 CFR Part 180

[OPP-300207; FRL-3667-8]

#### Tomatoes; Definitions and Interpretations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

**SUMMARY:** This document proposes that 40 CFR 180.1(h) be amended by adding a commodity definition to define tomatoes to include tomatoes and tomatillos. This proposed amendment, which will define the commodity terms for tolerance purposes, was initiated by the Agency.

**DATES:** Comments, identified by the document control number, [OPP-300207], must be received on or before February 23, 1990.

**ADDRESSES:** By mail submit comments to: Public Information Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 246, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as 'Confidential Business Information' (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 246 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:** By mail: Hoyt L. Jamerson, Emergency Response and Minor Use Section (H7505C), Registration Division, Environmental Protection Agency, 401 M

St., SW., Washington, DC 20460. Office location and telephone number: Rm. 716C, CM-2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-557-2310.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, the Administrator proposes that 40 CFR 180.1(h) be amended by adding 'tomatoes' to the general category of commodities in column A and defining the general commodity term for tolerance purposes by inserting the corresponding raw agricultural commodities 'tomatoes' and 'tomatillos' in the specific commodities listing in column B.

Tomato (*Lycopersicon esculentum*) and tomatillo (*Physalis ixocarpa*) are both members of the family *Solanaceae*. Growth habits of tomatillo are similar to tomatoes, and cultural practices are understood to be quite similar. Tomatillos differ from tomatoes in that the tomatillo fruit is enclosed in a thin husk, which is removed before the fruit is consumed. Due to the presence of the husk surrounding the fruit, pesticide residues resulting from identical pesticide uses are expected to be comparable or even less on tomatillos (with husk removed) than residues which occur on tomatoes.

The Agency proposes the revision of 40 CFR 180.1(h) to add the general category 'tomatoes' with the specific raw agricultural commodities 'tomatoes' and 'tomatillos.' This revision will expand the tolerances, and exemptions from the requirement of a tolerance, established for residues of pesticide chemicals in or on the general category 'tomatoes' to include the specific raw agricultural commodity tomatillos. Based on the information considered by the Agency, it is concluded that the regulation established by amending 40 CFR 180.1(h) would protect the public health. Therefore, it is proposed that 40 CFR 180.1(h) be amended as set forth below.

Interested persons are invited to submit written comments on the proposed amendment. Comments must bear a notation indicating the document control number, [OPP-300207]. All written comments filed in response to this petition will be available in the Public Information Branch, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.



Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1991 (46 FR 24950).

#### List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: January 2, 1990.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

#### PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.1(h) is amended by adding and alphabetically inserting a commodity definition for tomatoes in column A and tomatoes and tomatillos in column B, to read as follows:

#### § 180.1 Definitions and interpretations.

(h) * * *	
A	B
Tomatoes	Tomatoes, tomatillos

[FR Doc. 90-1589 Filed 1-23-90; 8:45 am]

BILLING CODE 6560-50-D

#### FEDERAL COMMUNICATIONS COMMISSION

##### 47 CFR Part 80

[Gen. Docket No. 89-623; FCC 89-350]

#### Maritime Services; Procedure for Testing Class A, B, and S Emergency Position Indicating Radio Beacons (EPIRBs)

AGENCY: Federal Communications Commission.

ACTION: Proposed rules.

SUMMARY: This action proposes a procedure for testing Class A, B, and S

Emergency Position Indicating Radio Beacons regulated under part 80 of the FCC Rules. The proposed procedure would replace the present test procedures contained in FCC Bulletin OET-45 and RTCA Document DO-183. It also includes a new procedure for spectral enhancement requirements which became effective on October 1, 1988.

DATES: Comments are due on or before March 12, 1990, and Reply Comments are due on or before April 11, 1990.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas W. Phillips, FCC Laboratory, 7435 Oakland Mills Road, Columbia, MD, 21046, telephone number: 301-725-1585.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making in General Docket 89-623, adopted December 20, 1989, and released January 17, 1990. The full text of the Commission proposal is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230) 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the FCC duplicating contractors, International Transcription Service, 2100 M Street NW., Suite 140, Washington, DC 20037.

#### Summary of the Notice of Proposed Rule Making

1. By this action, the Commission proposes to establish a new procedure for testing Class A, B and S emergency position indicating radio beacons (EPIRBs) operating under part 80 of the Commission's Rules. The new procedure, "FCC Procedure for Testing Class A, B and S Emergency Position Indicating Radio Beacons (EPIRBs)", FCC/OET TP-8, is intended to set forth uniform methods for testing these devices for compliance with the present and proposed technical standards in part 80 of the Rules. (See FCC Docket 89-623).

2. An EPIRB is a small, battery powered transmitter carried on maritime vessels to provide radiolocation signals in case of an accident at sea. EPIRB signals are intended to assist search and rescue units in locating survivors and offering assistance to stricken vessels. Class A, B, and S EPIRBs operate on 121.5 and 243 MHz. The rules set forth limits on radiated power and spurious emissions, and specify certain operational environmental requirements for these EPIRBs. Class A EPIRBs are designed to float free of a vessel and

activate automatically. Class B EPIRBs may be activated manually or automatically, but are not required to float. Class S EPIRBs may either float free or provide a means of attachment to a survival craft, and must be activated manually. All EPIRBs must be type-accepted under the procedures in part 2 of the rules. (See 47 CFR 80.203(a)).

3. In a recent FCC Docket 87-133, 53 FR 8904, 3/18/88, the technical standards for Class A, B and S EPIRBs were modified to require that a percentage of the power during each audio sweep be concentrated about the carrier to enhance detection by satellite receivers. This "spectral enhancement" requirement became effective for all EPIRBs manufactured after October 1, 1988. In that proceeding, the Commission also indicated that it intended to establish a test procedure for determining compliance with the new spectral enhancement requirements in a future rule making proceeding.

4. Additionally, in 1988 the FCC Laboratory conducted investigations of Class A, B and S EPIRBs in response to complaints to the Commission and the U.S. Coast Guard about water leakage. Samples of most EPIRBs on the market were tested for compliance with the requirements in part 80 of the rules by the Laboratory. In addition, the U.S. Coast Guard tested some models for compliance with certain mechanical and environmental requirements, including water leakage. These investigations revealed a high rate of non-compliance. Accordingly, we now believe it necessary to establish a new, more comprehensive procedure to provide guidance on how such devices are to be tested for compliance with the Commission's Rules.

5. The proposed test procedure for Class A, B and S EPIRBs provides step-by-step instructions for performing the required measurements. Detailed test procedures are provided to ensure compliance with the present and proposed FCC rules for peak effective radiated power (PERP), spurious emissions, modulation characteristics, carrier frequency, spectral enhancement characteristics, and environmental requirements. In order to make it more generally available to the public and to clarify that it has the full force of regulations, we are also proposing to include the procedure into our rules.

6. This is a non-restricted notice and comment rule making proceeding. See § 1.1231 of the Commission's Rule, 47 CFR 1.1231 of the rule governing permissible ex parte contacts.

7. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 603, the



proposed rules, if adopted, will not have a significant economic impact on a substantial number of small entities because it provides guidance and procedures consistent with the needs of industry. Public comment is requested on the initial regulatory flexibility analysis set out in full in the Commission's complete decision.

8. The proposal in this proceeding has been reviewed with respect to the Paperwork Reduction Act of 1980 and found to marginally increase the amount of test data required to be recorded, since tests are added as a result of the new rules. No change in record keeping requirements is proposed.

9. Pursuant to the applicable procedures set out in § 1.415 of the Commission's Rules, interested persons may file comments with the Secretary of the FCC on or before March 12, 1990, and reply comments on or before April 11, 1990. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding.

#### List of Subjects in 47 CFR Part 80

Communications equipment, Emergency position indicating radio beacon (EPIRB), Marine safety, Radio, Vessels.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 90-1525 Filed 1-23-90; 8:45 am]

BILLING CODE 6712-01-M

#### 47 CFR Parts 80 and 87

[PR-89-622; FCC 89-351]

#### Maritime and Aviation Services; Technical Characteristics of Emergency Position Indicating Radiobeacons and Emergency Locator Transmitters

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

**SUMMARY:** This document requests comments on the proposed rules to modify and clarify the technical characteristics applicable to emergency position indicating radiobeacons (EPIRBs) and emergency locator transmitters (ELTs). This action was taken in response to a Petition for Rule Making filed by the Radio Technical Commission for Maritime Services. The proposed rules would improve the performance of EPIRBs and ELTs.

**DATES:** Interested parties may file comments on or before March 5, 1990

and reply comments on or before March 20, 1990.

**ADDRESS:** Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

#### FOR FURTHER INFORMATION CONTACT:

George R. Dillon, Federal Communications Commission, Private Radio Bureau, Washington, DC 20554, (202) 632-7175.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rule Making PR 89-622, adopted December 20, 1989, and released January 10, 1990.

1. The full text of this Commission decision, including the proposed rules, is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this rule making may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

#### Summary of Proposed Rule Making

2. The Commission has proposed to amend the rules to require EPIRBs and ELTs to meet certain technical standards involving the transmitted power. EPIRBs and ELTs are small battery operated transmitters used by mariners and aviators to send a distress signal. The proposed change will improve the detection of these devices by satellites and will aid search and rescue units in the location of the device. In a companion item to this rule making proceeding (General Docket 89-634) the Commission is proposing a revised test procedure for EPIRBs.

3. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980, 44 U.S.C. 3501-3520, and found to contain no new or modified form, information collection or record keeping, labeling, disclosure, or record retention requirements; and will not increase or decrease burden hours imposed on the public.

4. We certify that section 605(b) of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) does not apply to this rule making proceeding because it will not have a significant economic impact on a substantial number of small entities. The proposed amendment will have some beneficial effect on the maritime and aviation communities by improving the lifesaving capabilities of the satellite system used to locate and detect an activated EPIRB or ELT.

5. This is a non-restricted notice and comment rule making proceeding. See

§ 1.1206 of the Commission's Rules, 47 CFR 1.1206, for rules governing permissible *ex parte* contacts.

6. This Notice of Proposed Rule Making and the proposed rule amendments are issued under authority of sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r).

7. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before March 5, 1990, and reply comments on or before March 20, 1990.

The Commission will consider all relevant and timely comments before taking final action in this proceeding.

8. A copy of this Notice of Proposed Rule Making will be forwarded to the Chief Counsel of Advocacy of the Small Business Administration.

#### List of Subjects

##### 47 CFR Part 80

Communications equipment, Maritime services, Maritime mobile stations, Marine safety, Radio, Vessels.

##### 47 CFR Part 87

Air transportation, Aviation services, Aeronautical mobile stations, Communications equipment, Radio.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

#### Proposed Rule

Parts 80 and 87 of chapter I of title 47 of the Code of Federal Regulations are proposed to be amended as follows:

#### A. PART 80—STATIONS IN THE MARITIME SERVICES

1. The authority citation for part 80 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1982, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret on apply 48 Stat. 1064-1068, 1081-1105, as amended; 47 U.S.C. 151-155, 301-609; 3 UST 3450, 3 UST 4726, 12 UST 2377, unless otherwise noted.

2. Section 80.223 is amended by revising paragraph (d) to read as follows:

#### § 80.223 Special requirements for survival craft stations.

\* \* \* \* \*

(d) Any EPIRB carried as part of a survival craft station must comply with the specific technical and performance requirements for its class contained in subpart V of this part.



3. Section 80.1053 is amended by revising paragraphs (a)(7), (a)(8), (a)(12), (b)(3), (c), and (e) to read as follows:

**§ 80.1053 Special requirements for Class A EPIRB stations.**

(a) \* \* \*

(7) The mandatory A3N emission must be amplitude modulated with an audio signal swept downward between 1600 and 300 Hz. The sweeping range of the audio signal must be 700 Hz or greater. Its sweep rate must be between 2 and 4 times per second. The modulation factor must be at least .85 and the modulation duty cycle must be at least 33%, but not more than 55%. The optional A3E emission must comply with the modulation factor and duty cycle;

(8) EPIRBs manufactured on or after October 1, 1988; EPIRBs carried as part of a ship station to satisfy USCG equipment carriage requirements that are newly installed on or after April 1, 1989; EPIRBs carried as part of a ship station to satisfy USCG equipment carriage requirements on or after August 1, 1991; and, EPIRBs that are newly installed as part of a voluntarily equipped ship station after August 1, 1991, must have a clearly defined carrier frequency distinct from the modulation sidebands for the mandatory emission, A3N, and, if used, the A3E of NON emissions. On 121.500 MHz at least thirty percent of the total power emitted during any transmission cycle with or without modulation must be contained within plus or minus 30 Hz of the carrier frequency. On 243.000 MHz at least thirty percent of the total power emitted during any transmission cycle with or without modulation must be contained within plus or minus 60 Hz of the carrier frequency. Additionally, if the type of emission is changed during transmission the carrier frequency must not shift more than plus or minus 30 Hz on 121.500 MHz and not more than plus or minus 60 Hz on 243.000 MHz. The long term stability of the carrier frequency must comply with the requirements in § 80.209(a);

(12) Meet the requirements of paragraphs (a)(1) through (a)(9) of this section after a free fall into water 3 times from a height of 20 meters (67 ft.);

(b) \* \* \*

(3) Reduce radiation to a level not to exceed 100 nanowatts at a distance of 30 meters (98 feet) irrespective of direction.

(c) EPIRBs manufactured on or after October 1, 1988, must be tested in accordance with the Office of Engineering Technology Test Procedure, OET TP-8, "FCC Procedure for Testing

Emergency Position Indicating Radiobeacons (EPIRBs)". A report of the measurements must be submitted with each application for type acceptance. EPIRBs that meet the output power characteristics of this section must have a permanent label prominently displayed on the outer casing stating, "Meets FCC Rules for improved satellite detection." This label, however, must not be placed on the equipment without authorization to do so by the Commission. Such authorization may be applied for either by submission of a new application for type acceptance accompanied by the required fee and all information and test data required by parts 2 and 80 of this chapter or, for EPIRBs type accepted prior to October 1, 1988, a letter requesting such authorization, including appropriate test data and a showing that all units produced under the original type acceptance authorization comply with the requirements of this paragraph without change to the original circuitry. The modulation, power and frequency stability requirements specified in paragraphs (a)(6), (a)(7), and (a)(8) of this section must be met under the environmental test conditions specified in the FCC test procedure OET TP-8.

(d) \* \* \*

(e) EPIRBs must be powered by a battery contained within the transmitter case or in a battery holder that is rigidly attached to the transmitter case. The battery connector must be corrosion resistant and positive in action and must not rely for contact upon spring force alone. The useful life of the battery is the length of time that the battery can be stored under marine environmental conditions without the EPIRB transmitter output power falling below 75 milliwatts prior to 48 hours of continuous operation. The month and year of the battery's manufacture must be permanently marked on the battery and the month and year upon which 50 percent of its useful life will have expired must be permanently marked on both the battery and the outside of the transmitter. The batteries must be replaced if 50 percent of their useful life has expired or if the transmitter has been used in an emergency situation. EPIRBs manufactured after (one year from the effective date of this rule making) must have the battery installation instructions displayed prominently on the outer case.

4. Section 80.1055 is amended by revising paragraph (a)(3) to read as follows:

**§ 80.1055 Special requirements for Class B EPIRB stations.**

(a) \* \* \*

(3) Meet the requirements in § 80.1053 (a)(4) through (a)(8), (a)(14), and (c) through (i). EPIRBs with water activated batteries must, additionally, meet the requirements contained in § 80.1053 (a)(10) and (a)(11);

5. Section 80.1059 is amended by revising paragraphs (d)(3) and (d)(4) to read as follows:

**§ 80.1059 Special requirements for Class S EPIRB stations.**

(d) \* \* \*

(3) Meet the requirements in § 80.1053 (a)(4) through (a)(8) and (b) through (i);

(4) Class S EPIRBs may provide either continuous or intermittent operation. If the EPIRB is designed for intermittent operation, the duty cycle must be 50 percent and the period two minutes plus or minus 12 seconds. In either event, the EPIRB must meet the power output characteristics described in § 80.1053(a)(8);

6. Section 80.1061 is amended by revising paragraph (b) to read as follows:

**§ 80.1061 Special requirements for 406.025 MHz EPIRBs.**

(b) \* \* \*

(b) The 406.025 MHz EPIRB must contain as an integral part a "homing" beacon operating only on 121.500 MHz that meets all the requirements described in the RTCM Recommended Standards document described in paragraph (a) of this section. The 121.500 MHz "homing" beacon must have a continuous duty cycle that may be interrupted during the transmission of the 406.025 MHz signal only. Additionally, at least 30 percent of the total power emitted during any transmission cycle must be contained within plus or minus 30 Hz of the carrier frequency.

**B. PART 87—AVIATION SERVICES**

1. The authority citation for part 87 continues to read as follows:

Authority: 48 Stat. 1066, 1082, amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply 48 Stat. 1064-1068, 1081-1105, as amended; 47 U.S.C. 151-156, 301-609.

2. Section 87.141 is amended by revising paragraph (g), (h), and (i) to read as follows:



**§ 87.141 Modulation requirements.**

(g) Except that symmetric sidebands are not required, the modulation characteristics for ELTs must be in accordance with the specifications contained in the Federal Aviation Administration (FAA) Technical Standard Order (TSO) document TSO-C91a titled "Emergency Locator Transmitter (ELT) Equipment" dated April 29, 1985. TSO-C91a is incorporated by reference in accordance with 5 U.S.C. 552(a). TSO-C91a may be obtained from the Department of Transportation, Federal Aviation Administration, Office of Airworthiness, 800 Independence Avenue SW., Washington, DC 20591.

(h) ELTs must use A3N emission and may use A3E or NON emissions on an optional basis while transmitting. Each transmission of a synthesized or recorded voice message from an ELT must be preceded by the words "this is a recording"; transmission of A3E or NON emission must not exceed 90 seconds; and any transmission of A3E or NON emissions must be followed by at least three minutes of A3N emission.

(i) ELTs manufactured on or after October 1, 1988, must have a clearly defined carrier frequency distinct from the modulation sidebands for the mandatory emission, A3N, and, if used, the A3E or NON emissions. On 121.500 MHz at least thirty percent of the total power emitted during any transmission cycle with or without modulation must be contained within plus or minus 30 Hz of the carrier frequency. On 243.000 MHz at least thirty percent of the total power emitted during any transmission cycle with or without modulation must be contained within plus or minus 60 Hz of the carrier frequency. Additionally, if the type of emission is changed during transmission, the carrier frequency must not shift more than plus or minus 30 Hz on 121.500 MHz and not more than plus or minus 60 Hz on 243.000 MHz. The long term stability of the carrier frequency must comply with the requirements in § 87.133.

3. In § 87.147, paragraphs (b) and (c) are redesignated as paragraphs (c) and (d), and a new paragraph (b) is added to read as follows:

**§ 87.147 Type acceptance of equipment.**

(b) ELTs manufactured after October 1, 1988, must meet the output power characteristics contained in § 87.141(i) when tested in accordance with the Signal Enhancement Test, contained in the Office of Engineering Technology Test Procedure, OET TP-8, "FCC Procedure for Testing Emergency

Position Indicating Radiobeacons (EPIRBs)". A report of the measurements must be submitted with each application for type acceptance. ELTs that meet the output power characteristics of this section must have a permanent label prominently displayed on the outer casing stating, "Meets FCC Rules for improved satellite detection." This label, however, must not be placed on the equipment without authorization to do so by the Commission. Such authorization may be applied for either by submission of a new application for type acceptance accompanied by the required fee and all information and test data required by parts 2 and 87 of this chapter or, for ELTs type accepted prior to October 1, 1988, a letter requesting such authorization, including appropriate test data and a showing that all units produced under the original type acceptance authorization comply with the requirements of this paragraph without change to the original circuitry.

[FR Doc. 90-1524 Filed 1-23-90; 8:45 am]

BILLING CODE 6712-01-M

**DEPARTMENT OF TRANSPORTATION****Federal Railroad Administration****49 CFR Part 240**

[FRA Docket No. RSOR-9, Notice 2]

RIN 2130-AA51

**Qualifications for Locomotive Operators; Change in Schedule for Public Hearings and Filing of Written Comments**

**AGENCY:** Federal Railroad Administration (FRA), DOT.

**ACTION:** Rescheduling of public hearings; extension of comment period.

**SUMMARY:** On December 11, 1989 FRA published in the Federal Register a Notice of Proposed Rulemaking (NPRM) concerning the establishment of minimum qualifications for locomotive operators. FRA has found it necessary to delay the schedule of the public hearings and to extend the period for filing written comments in order to permit commenters additional time to prepare their responses to this proposal.

**DATES:** (1) Written comments must be received no later than May 4, 1990. Comments received after that date will be considered to the extent possible without incurring additional expense or delay.

(2) FRA will hold public hearings on this proposal on March 14, and April 11, 1990, at the times and places set forth

below. Any person who desires to make an oral statement at the hearings is requested to notify the Docket Clerk at least five working days prior to the hearing, by phone or in writing.

**ADDRESSES:** (1) The public hearings previously scheduled for January 25, 1990 and February 7, 1990 will be held on March 14, 1990 and April 11, 1990, at the times and places set forth below. The public hearings will be held at the following locations and times:

—Chicago, Illinois (Wednesday, March 14, 1990 at 9:30 a.m.)—Courtroom 2525, United States District Court, 219 South Dearborn Avenue; and

—Washington, DC (Wednesday, April 11, 1990 at 9:30 a.m.)—Room 2230, Nassif Building, 400 Seventh Street SW.

Persons desiring to make oral statements at the hearings should notify the Docket Clerk by telephone (202-366-0628) or by writing to the Docket Clerk at the above address.

(2) Prepared statements (five copies) and written comments (three copies) should be submitted to the Docket Clerk, Office of Chief Counsel, FRA, 400 Seventh Street SW., Washington, DC 20590. Persons desiring to be notified that their written comments have been received by FRA should submit a stamped, self-addressed postcard with their comments. The Docket Clerk will indicate on the postcard the date on which the comments were received and will return the card to the addressee. Written comments will be available for examination, both before and after the closing date for comments, during regular business hours in Room 8201 of the Nassif Building at the above address.

Persons desiring to make oral statements at the hearings should notify the Docket Clerk by telephone (202-366-0628) or by writing to the Docket Clerk at the address above.

**FOR FURTHER INFORMATION CONTACT:** Richard M. McCord, Deputy Regional Director for Safety, FRA, Portland, Oregon, (Telephone: 503-328-3011); or Lawrence I. Wagner, Trial Attorney, Office of Chief Counsel, FRA, 400 Seventh Street SW., Washington, DC 20590 (Telephone: 202-366-0628); or Edward R. English, Chief of Maintenance Programs Division, Office of Safety, FRA, 400 Seventh Street SW., Washington, DC 20590 (Telephone: 202-366-9186).

**SUPPLEMENTARY INFORMATION:** FRA has found it necessary to revise the public participation schedule announced in its NPRM concerning the qualifications of locomotive operators that appeared in



the Federal Register on December 11, 1989. These changes are in response to requests for additional time submitted by the Association of American Railroads (AAR), the American ShortLine Railroad Association (ASLRA) and the Railway Labor Executives Association (RLEA). All three organizations represent large segments of the regulated community that would be impacted by the adoption

of any regulation concerning the certification of locomotive operators. Although all three organizations have requested a delay in the hearing schedule and additional time to file written comments, each organization proposed a different rescheduling timetable. After reviewing the arguments advanced in support of additional time, FRA has concluded that a 60-day extension of the comment

period and similar delay in the hearing schedule should provide sufficient additional time to respond to this proposal.

Issued in Washington, DC, on January 18, 1990.

**S. Mark Lindsey,**  
*Chief Counsel.*

[FR Doc. 90-1549 Filed 1-23-90; 8:45 am]

BILLING CODE 4910-06-M



## Notices

Federal Register

Vol. 55, No. 16

Wednesday, January 24, 1990

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

### DEPARTMENT OF AGRICULTURE

#### Office of the Secretary

#### Agricultural Biotechnology Research Advisory Committee; Renewal

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that the Secretary of Agriculture is renewing the charter of the Agricultural Biotechnology Research Advisory Committee (ABRAC). The purpose of the Committee is to advise the Secretary through the Assistant Secretary for Science and Education with respect to policies, programs, operations and activities associated with the conduct of agricultural biotechnology research.

The Secretary has determined that the work of the Committee is in the public interest and is relevant to the duties of the Department of Agriculture.

The experience of the Committee over the past two years has highlighted several areas of expertise not currently present on the Committee. These areas include public health, human medicine, fisheries science, food safety, socioeconomic impacts, bioethics, and public attitudes. Therefore, the Department is increasing the size of the Committee from 13 to 15 in order to strengthen the advisory committee review of these subjects areas within current fiscal constraints.

The Committee, including the Chair and Vice-Chair, will consist of 15 voting members, of whom no more than five will be federal employees. The members of the Committee will have professional or personal qualifications or experience in one or more of the following areas: recombinant-DNA research in plants, animals and microbes; ecology/epidemiology/environmental science; agricultural production practices; biological containment and field release; applicable laws and regulations; standards of professional conduct and practice, public attitudes; public health,

occupational health and ethics; human medicine; fisheries science; and socioeconomic impacts.

Done at Washington, DC this 17th day of January, 1990.

Adis M. Vila,

Assistant Secretary for Administration.

[FR Doc. 90-1583 Filed 1-23-90; 8:45 am]

BILLING CODE 3410-22-M

### DEPARTMENT OF COMMERCE

[Docket No. 91292-9282]

#### Extension of Deadline for Request for Comments on the Proposed Guidelines for Considering Whether or not a Statistical Adjustment of the 1990 Decennial Census of Population and Housing Should be Made for Coverage Deficiencies Resulting in an Overcount or Undercount of the Population

**AGENCY:** Office of the Under Secretary for Economic Affairs, U.S. Department of Commerce.

**ACTION:** Extension of Deadline for Comments, Notice.

**SUMMARY:** On Monday, December 11, 1989, proposed guidelines and request for comments were published in the Federal Register (54 FR, 51002-51005). The proposed guidelines and notice were published pursuant to the Stipulation and Order agreed to by the Federal Government and the City of New York and Others in the case of *City of New York et al., v. Department of Commerce, et al.*, Docket No. 88 Civ. 3474 (U.S. Dist. Ct., EDNY). The purpose of this notice is to inform the public that the time for responding to the notice has been extended from January 25, 1990 to February 2, 1990.

**DATE:** Comments from the public on the guidelines should be received no later than February 2, 1990.

**ADDRESS:** Written comments should be addressed to: Michael R. Darby, Under Secretary for Economic Affairs, Room 4848 Herbert C. Hoover Building, United States Department of Commerce, Washington, DC 20230.

**FOR FURTHER INFORMATION CONTACT:** Mark W. Plant, Deputy Under Secretary for Economic Affairs, U.S. Department of Commerce, telephone (202) 377-3523.

Dated: January 18, 1990.

Michael R. Darby,

Under Secretary for Economic Affairs.

[FR Doc. 90-1618 Filed 1-23-90; 8:45 am]

BILLING CODE 3510-EA-M

### International Trade Administration

#### Postponement of Preliminary Antidumping Duty Determination; Gray Portland Cement and Clinker From Mexico (A-201-802)

**AGENCY:** International Trade Administration, Import Administration, Department of Commerce.

**ACTION:** Notice.

**SUMMARY:** This notice informs the public that we have received a request from the petitioner in this investigation to postpone the preliminary determination, as permitted in section 733(c)(1)(A) of the Tariff Act of 1930, as amended (the Act), (19 U.S.C. 1673b(c)(1)(A)). Based on this request, we are postponing our preliminary determination as to whether sales of gray Portland cement and clinker from Mexico have occurred at less than fair value until not later than March 19, 1990.

**EFFECTIVE DATE:** January 24, 1990.

**FOR FURTHER INFORMATION CONTACT:** Nancy Saeed, Brad Hess, or Louis Apple at (202) 377-1777, 377-3773 or 377-1769, respectively, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

**SUPPLEMENTARY INFORMATION:** On January 12, 1990, counsel for petitioner requested that the Department postpone the preliminary determination by 14 days, in accordance with section 733(c)(1)(A) of the Act. Accordingly, we are postponing the date of the preliminary determination until not later than March 19, 1990. The U.S. International Trade Commission is being advised of this postponement in accordance with section 733(f) of the Act.

This notice is published pursuant to section 733(c)(2) of the Act.



Dated: January 17, 1990.

Eric I. Garfinkel,

Assistant Secretary for Import  
Administration.

[FR Doc. 90-1519 Filed 1-23-90; 8:45 am]

BILLING CODE 3510-DS-M

**Antidumping or Countervailing Duty  
Order, Finding, or Suspended  
Investigation, Opportunity To Request  
Administrative Review**

**AGENCY:** International Trade  
Administration/Import Administration  
Department of Commerce.

**ACTION:** Notice of opportunity to request  
administrative review of antidumping or  
countervailing duty order, finding, or  
suspended investigation.

Background: Each year during the  
anniversary month of the publication of  
an antidumping or countervailing order,  
finding, or suspension of investigation,  
an interested party as defined in section  
771(9) of the Tariff Act of 1930 may  
request, in accordance with § 353.22 or  
§ 355.22 of the Commerce Regulations,  
that the Department of Commerce ("the  
Department") conduct an administrative  
review of that antidumping or

countervailing duty order, finding, or  
suspended investigation.

Opportunity to Request a Review: Not  
later than January 31, 1990, interested  
parties may request administrative  
review of the following orders, findings,  
or suspended investigations, with  
anniversary dates in January for the  
following periods:

Antidumping Duty Proceeding	Period
Brazil: brass sheet and strip (A-351-603).....	01/01/89-12/31/89
Canada: brass sheet and strip (A-122-601).....	01/01/89-12/31/89
Canada: color picture tubes (A-122-605).....	01/01/89-12/31/89
France anhydrous sodium metasilicate (A-427-098).....	01/01/89-12/31/89
Japan: calcium pantothenate (A-588-049).....	01/01/89-12/31/89
Japan: color picture tubes (A-588-609).....	01/01/89-12/31/89
Japan: expanded metal or base metal (A-588-048).....	01/01/89-12/31/89
Singapore: color picture tubes (A-559-601).....	01/01/89-12/31/89
Spain: potassium permanganate (A-489-007).....	01/01/89-12/31/89
South Africa: low-fuming brazing copper rod and wire (A-791-502).....	01/01/89-12/31/89
Taiwan: certain stainless steel cooking ware (A-583-603).....	01/01/89-12/31/89
The People's Republic of China: potassium permanganate (A-570-001).....	01/01/89-12/31/89
The Republic of Korea: brass sheet and strip (A-580-603).....	01/01/89-12/31/89
The Republic of Korea: color picture tubes (A-580-605).....	01/01/89-12/31/89
The Republic of Korea: stainless steel cooking ware (A-580-601).....	01/01/89-12/31/89
Suspended Investigation	Period
Canada: potassium chloride (A-122-701).....	01/01/89-12/31/89
Canada: certain red raspberries (C-122-504).....	01/01/89-12/31/89
Colombia: miniature carnations (C-301-600).....	01/01/89-12/31/89
Colombia: roses and other cut flowers (C-301-003).....	01/01/89-12/31/89
Costa Rica: certain fresh cut flowers (C-223-601).....	01/01/89-12/31/89
Hungary: truck trailers axle-and-brake assemblies (A-437-001).....	01/01/89-12/31/89
Countervailing Duty Proceeding	Period
Argentina: non-rubber footwear (C-357-052).....	01/01/89-12/31/89
Brazil: brass sheet and strip (C-351-604).....	01/01/89-12/31/89
Ecuador: fresh cut flowers (C-331-601).....	01/01/89-12/31/89
Italy: semi-finished forged undercarriage components (C-475-006).....	01/01/89-12/31/89
Mexico: fabricated automotive glass (C-201-406).....	01/01/89-12/31/89
The Republic of Korea: stainless steel cooking ware (C-580-602).....	01/01/89-12/31/89
Spain: stainless steel wire rod (C-489-004).....	01/01/89-12/31/89
Taiwan: stainless steel cooking ware (C-583-604).....	01/01/89-12/31/89

Seven copies of the request should be  
submitted to the Assistant Secretary for  
Import Administration, International  
Trade Administration, Room B-099, U.S.  
Department of Commerce, Washington,  
DC 20230.

The Department will publish in the  
*Federal Register* a notice of "Initiation  
of Antidumping (Countervailing) Duty  
Administrative Review," for requests  
received by January 31, 1990.

If the Department does not receive by

January 31, 1990 a request for review of  
entries covered by an order or finding  
listed in this notice and for the period  
identified above, the Department will  
instruct the Customs Service to assess  
antidumping or countervailing duties on  
those entries at a rate equal to the cash  
deposit of (or bond for) estimated  
antidumping or countervailing duties  
required on those entries at the time of  
entry, or withdrawal from warehouse,  
for consumption and to continue to

collect the cash deposit previously  
ordered.

This notice is not required by statute,  
but is published as a service to the  
international trading community.

Dated: January 17, 1990.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 90-1621 Filed 1-23-90; 8:45 am]

BILLING CODE 3510-DS-M



[A-588-015]

**Television Receivers, Monochrome and Color, From Japan; Final Results of Antidumping Duty Administrative Reviews****AGENCY:** International Trade Administration/Import Administration Department of Commerce.**ACTION:** Notice of final results of antidumping duty administrative reviews.**SUMMARY:** On November 3, 1989, the Department of Commerce published the preliminary results of its administrative reviews of the antidumping finding on television receivers, monochrome and color, from Japan. The reviews cover four manufacturers and/or exporters of this merchandise to the United States and various periods from April 1, 1983 through February 28, 1989.

We gave interested parties an opportunity to comment on our preliminary results. At the request of one respondent, we held a hearing on December 1, 1989.

Based on our analysis of the comments received and the correction of certain clerical errors, we have changed the final results for three firms. (We will cover the fourth firm, Sharp Corporation, in a separate notice.) The final margins range from 0 to 22.90 percent. Before deciding on revocation for Toshiba, we are inviting comments on the likelihood of resumption of dumping by Toshiba.

**EFFECTIVE DATE:** January 24, 1990.**FOR FURTHER INFORMATION CONTACT:** Wendy J. Frankel, J.E. Downey, or John R. Kugelman, Office of Antidumping Compliance, International Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-3601.**SUPPLEMENTARY INFORMATION:****Background**On November 3, 1989, the Department of Commerce (the Department) published in the *Federal Register* (54 FR 46434) the preliminary results of its antidumping duty administrative reviews of the antidumping finding on television receivers, monochrome and color, from Japan (36 FR 4597, March 10, 1971). We have now completed these administrative reviews in accordance with section 751 of the Tariff Act of 1930 (the Tariff Act).**Scope of Review**

Imports covered by the reviews are shipments of television receiving sets, monochrome and color, and include but are not limited to projection televisions, receiver monitors, and kits (containing

all the parts necessary to receive a broadcast television signal and produce a video image). Not included are certain monitors not capable of receiving a broadcast signal, certain combination units, and certain subassemblies not containing the components essential for receiving a broadcast television signal and producing a video image.

The reviews cover four manufacturers and/or exporters of Japanese television receivers, monochrome and color, and various periods from April 1, 1983 through February 28, 1989. We will cover one of the four firms, Sharp Corporation, in a separate notice. All reviewed periods are identified in the Final Results of Review section of this notice.

On November 27, 1985 (50 FR 48852), the Department initiated reviews for Toei Electronics Co., Ltd. for the periods April 1, 1981 through March 31, 1982, and April 1, 1982 through March 31, 1983. Since Toei did not have sales of merchandise included in the scope of the antidumping finding during these periods, we are terminating those reviews.

**Analysis of Comments Received**

We invited interested parties to comment on the preliminary results. At the request of a respondent, Sharp Corp., we held a public hearing on December 1, 1989. We received comments from a domestic party, Zenith Electronics Corp., and three respondents, Sharp, Toshiba, and NEC.

In this final determination, we have corrected the following inadvertent programming or mathematical errors in our calculations in the partial fifth review for Toshiba: double-counting of packing costs, selling expenses, and general expenses, double-counting of a difference in merchandise adjustment, and the use of an incorrect U.S. interest rate.

**Comment 1:** Zenith argues that the Department should have implemented the ruling of the Court of International Trade (CIT) in *Zenith Electronics Corp. v. United States*, 10 CIT 268, 633 F.Supp. 1382 (1986), appeals dismissed, Fed. Cir. Nos. 88-1259 and 88-1260 (1989), by capping the tax adjustment to United States price (USP) at the amount of tax added to, or included in, the home market price. Zenith also contends that, since the court prohibited the Department from using the circumstance-of-sale adjustment under 19 U.S.C. 1677b(a)(4)(b) to neutralize the tax adjustment required by 19 U.S.C. 1677a(d)(1)(c), the Department should not make such an adjustment in this case.**Department's Position:** We do not agree with the court in *Zenith* but have

not had an opportunity to appeal the issue on its merits. Consistent with our long-standing policy, we have not attempted to measure the amount of tax "passed through" to customers in the Japanese market. We do not agree that the statutory language limiting the amount of the adjustment to the amount of the commodity tax "added to or included in the price" of televisions sold in Japan requires the Department to measure the incidence of the tax in an economic sense. Furthermore, applying such an interpretation would be contrary to the obligations of the United States under the General Agreement on Tariffs and Trade (GATT). Article VI of the GATT prohibits a finding of dumping due solely to the exemption of the exported product from taxes in the country of origin—a result that the "pass-through" method could lead to.

We agree that the amount of commodity tax forgiven by reason of the export of televisions to the United States must be added to USP under the statute. We calculated the adjustment by multiplying the ex-factory U.S. price by the tax rate and adding the result to USP. To avoid artificially inflating or deflating margins, we made circumstance-of-sale adjustments equal to the difference in the tax per unit. See our position on *Comment 3* in *Television Receivers, Monochrome and Color, From Japan; Final Results of Antidumping Administrative Review and Determination Not to Revoke in Part* (54 FR 35517, August 28, 1989).**Comment 2:** Zenith argues that the Department failed to account for what Zenith regards as interest income earned on deferred payments of rebates and discounts.**Department's Position:** We disagree. We have addressed this issue in past reviews of this case. See *Television Receivers, Monochrome and Color, From Japan; Final Results of Antidumping Duty Administrative Review* (52 FR 8940, March 20, 1987 and 54 FR 13197, April 6, 1989). We avoid imputing expenses where a company quantifies the actual expenses and provides adequate documentation of those expenses.**Comment 3:** Zenith argues that the Department should require respondents to demonstrate that each indirect expense claimed in exporter's sales price (ESP) comparisons as part of the offset to foreign market value (FMV) is, in fact, a selling expense.**Department's Position:** Zenith has not indicated which expenses may not be selling expenses. We have no reason to believe that the claimed expenses are not related to selling activities. At



verification we examined the nature of certain expenses and confirmed that they were either directly or indirectly related to sales.

*Comment 4:* Zenith argues that the Department failed to deduct antidumping legal expenses from ESP.

*Department's Position:* We do not agree that legal expenses associated with antidumping proceedings should be deducted from ESP because such expenses are not incurred in selling merchandise in the United States. See *Television Receivers, Monochrome and Color, From Japan; Final Results of Antidumping Administrative Review* (52 FR 8940, March 20, 1987 and 54 FR 13197, April 6, 1989).

*Comment 5:* Zenith contends that the Department should deduct from USP the actual amount of estimated antidumping duties paid by the respondents.

*Department's Position:* We do not consider estimated antidumping duties paid to be expenses related to the sales under consideration. See *Television Receivers, Monochrome and Color, From Japan; Final Results of Antidumping Administrative Review* (54 FR 13197, April 6, 1989 and 54 FR 35517, August 28, 1989).

*Comment 6:* Zenith argues that the Department should identify the direct and indirect components of U.S. commissions and should offset home market indirect selling expenses up to the amount of only those indirect components. Zenith further contends that the Department must deduct from USP all indirect selling expenses incurred in the home market on all commissioned United States sales.

*Department's Position:* We disagree with Zenith's first point. As we have noted elsewhere, our regulations require us to make an adjustment for situations in which a commission is paid in one market and not in the other market. We do not interpret our regulations as requiring us to limit the offset to any portion of the expenses of the commissionaire. See *Television Receivers, Monochrome and Color, From Japan; Final Results of Antidumping Administrative Review* (54 FR 13197, April 6, 1989 and 54 FR 35517, August 28, 1989). As for Zenith's second point, we have deducted from USP all of Toshiba's export-related selling expenses incurred in the home market.

*Comment 7:* Zenith argues that the Department's policy of instructing Customs to collect cash deposits based on entered value understates the amounts that should be collected because the weighted-average dumping margin is calculated on the basis of USP, and USP will always be higher than the entered value. Since the percentage

calculated on the basis of USP is applied to the lower entered value, this calculation understates the estimated duty. Zenith urges the Department to calculate the deposit rate on the basis of entered value, rather than USP.

*Department's Position:* We disagree. Section 731 of the Tariff Act defines an antidumping duty as the amount by which foreign market value exceeds United States price. We do not have the authority to calculate dumping margins on the basis of the difference between FMV and entered value.

At the time of entry of any shipment, USP has yet to be determined. Since case deposits of estimated antidumping duties are required at the time of entry, we instruct Customs to require such deposits expressed as a percentage of the only information available, which is entered value. See *Television Receivers, Monochrome and Color, From Japan; Final Results of Antidumping Administrative Review* (52 FR 8940, March 20, 1987 and 54 FR 35517, August 28, 1989).

*Comment 8:* For Toshiba in the partial fifth review, Zenith argues that the Department incorrectly calculated general expenses for constructed value purposes by failing to include tooling costs and direct overhead in the cost of manufacture.

*Department's Position:* We agree and have made the appropriate changes.

*Comment 9:* Zenith argues that, for Toshiba in the partial fifth review, the Department incorrectly calculated profit by failing to include tooling costs, direct overhead, and selling expenses in the cost of goods sold.

*Department's Position:* We agree in part. We have now included tooling costs and direct overhead. We had already included selling expenses in this calculation.

*Comment 10:* For Toshiba in the partial fifth review, Zenith argues that the Department's calculation of physical differences in merchandise (difmer) is incorrect. Zenith states that while the Department's calculation is based on the cost of materials alone, it should be based on the costs of materials, labor, tooling costs, and direct overhead.

*Department's Position:* We did in fact include all of these costs in our calculation.

*Comment 11:* Zenith argues that since Toshiba, in the partial fifth review, was not able to support its direct overhead expense claim at verification, the Department should reject the claim and use the most adverse data as the best information available (BIA).

*Department's Position:* For the reasons set forth in our position to Comment 12, we determined that it was

appropriate to apply BIA to Toshiba in this case.

*Comment 12:* Toshiba argues that its responses to the Department's requests for information were complete, accurate, and timely, and that, therefore, the Department's use of BIA is improper.

*Department's Position:* We disagree. Section 353.37(a) of the Department's regulations requires the Department to use the best information available when the Department receives an incomplete response or is unable to verify, within the time specified, factual information submitted. Toshiba's response to our cost of production (COP) questionnaire was incomplete. For example, it did not explain its cost accounting system, its calculation of labor costs, its calculation of factory overhead, its treatment of assists, or its production capacity, nor did it furnish adequate data on its general and administrative expenses, as requested in our questionnaire. Therefore, we properly relied on BIA in our CV calculation. In this instance, however, since we had to complete this review by a court-ordered deadline, we were unable to provide Toshiba an opportunity to remedy its incomplete response, as is our usual practice. Under these circumstances, we determined to use the data Toshiba submitted in its COP response, to the extent we were able to verify them, as BIA. See also our position on Comment 13.

*Comment 13:* Toshiba argues that even if its COP response was deficient, as the Department claims, Toshiba had very little time to prepare it, and the Department, rather than resorting to BIA, should have permitted Toshiba to amend its initial COP response to remedy any such deficiencies.

*Department's Position:* Toshiba had 30 days to prepare its cost of production response, which is the normal time allotted. Toshiba was required to supply data for only a six-month period. There were only three models involved, one in the home market and two nearly identical models in the U.S. market, and a relatively small number of sales. Since this is an unusually small data requirement, 30 days should have been more than enough time to respond to our questionnaire.

Because the time given to Toshiba was reasonable under the circumstances, because the Department is committed to completing reviews more quickly, and particularly because we were under a court order, which Toshiba had sought, to finish these reviews by January 15, 1990, it was not practical to either grant an extension or to allow Toshiba to remedy any



deficiencies in its initial response. See also Comment 12 above.

**Comment 14:** Toshiba argues that, whether or not constructed value is based on BIA, the Department must make the circumstance-of-sale and ESP offset adjustments to CV that are required by the statute. Toshiba argues that the Department should make such adjustments based on the figures that Toshiba attempted to supply at verification or that, at a minimum, the Department should make the adjustments based on the claims in Toshiba's responses. Toshiba points out that, since the Department made different adjustments to CV, it should also make circumstance-of-sale and ESP offset adjustments to CV.

**Department's Position:** We determined to base constructed value on BIA because Toshiba's COP response was incomplete. Nonetheless, we relied on the COP response as BIA to the extent that we were able to verify it. At verification Toshiba requested that we also verify information regarding circumstance-of-sale adjustments different from that submitted in the COP response. Toshiba claimed that this additional information could be found in its previously submitted Ministry of Finance (MOF) report. In fact, we found that the additional information could be

derived from the MOF report only after performing complex and time-consuming calculations, none of which was explained in the COP response. Therefore, we advised Toshiba that we would first attempt to verify the adjustments explicitly claimed in the COP response and then, time permitting, examine new information. However, no time remained after our verification of the data explicitly claimed in the response. Consequently, we have accepted only those circumstance-of-sale and ESP offset expenses that we were able to verify, and we have made adjustments for those expenses to constructed value.

**Comment 15:** Toshiba argues that the Department must use the cost data for its domestic models, rather than export models, in calculating direct labor, indirect labor, and direct overhead for its CV computation.

**Department's Position:** We agree and have changed our calculations accordingly.

**Comment 16:** Toshiba argues that the Department must include in the administrative record all documents obtained at verification, not just those documents listed in the verification report as exhibits.

**Department's Position:** We agree. We did not verify or examine all of the

documents that Toshiba prepared for verification. In our verification report, we did not attach documents that we did not use in our analysis. Nonetheless we have now placed in the administrative record all documents obtained at verification.

**Comment 17:** NEC contends that the Department incorrectly used Matsushita's eighth review rate as BIA for NEC's tenth administrative review. NEC argues that the Department should have applied to the tenth review NEC's own rate from the ninth administrative review.

**Department's Position:** We agree in part. We inadvertently used Matsushita's eighth rate as BIA for NEC's tenth review margin. In our notice of preliminary results, we incorrectly stated that, as BIA for the tenth review, we would apply NEC's ninth review rate. In these final results, we are using NEC's eighth review rates as BIA for the company's tenth review because that rate is based on the most recently reviewed data.

#### Final Results of Review

As a result of the comments received, we have revised our preliminary results for Toshiba and NEC, and we determine the margin to be:

Manufacturer	Review No.	Period of review	Margin (percent)
Funai Electric	10	03/01/88-02/28/89	<sup>1</sup> 21.93
NEC	10	03/01/88-02/28/89	22.90
Toshiba	<sup>2</sup> 5	04/01/83-09/27/83	0
	9	03/01/87-02/29/89	<sup>1</sup> 0

<sup>1</sup> No shipments during the period; rate from last review in which there were shipments.

<sup>2</sup> Partial.

In our preliminary results notice we preliminarily determined not to revoke the order with respect to Toshiba because that company's margin was more than *de minimis*. Because we have now found, after reviewing the comments received and correcting certain clerical errors, that Toshiba's margin is zero for the periods reviewed, we determine that Toshiba has satisfied part of the requirements for revocation, according to 19 CFR 353.54(b) (1988). However, there is insufficient information on the record to determine whether Toshiba has satisfied another part of the requirements for revocation: whether there is any likelihood of resumption of sales at less than fair value (19 CFR 353.54(c)) (1988). Therefore, we invite comments from interested parties on the likelihood issue. Interested parties should submit written comments on this issue within 30 days of the date of publication of this

notice. We will issue our determination on revocation of Toshiba on or before April 1, 1990.

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. The Department will issue appraisement instructions for each exporter directly to the Customs Service.

As provided for in section 751(a) of the Tariff Act, a cash deposit of estimated antidumping duties based on the above rates shall be required for the above firms. The rates for Fujitsu General and Mitsubishi remain unchanged from the rates in the last results of review for these firms, published on February 11, 1988 (53 FR 4050). For any shipments of this merchandise from Matsushita Electric Industrial Corporation or Victor Company of Japan, the cash deposit rate will continue to be the same as the rate published in the final results of the last

administrative review for each of those firms (54 FR 13917, April 6, 1989).

For any future entries of this merchandise from a new exporter, not covered in this or prior reviews, whose first shipments occurred after February 28, 1989, and who is unrelated to any reviewed firm or any previously reviewed firm, a cash deposit of estimated antidumping duties of 28.94 percent shall remain in effect. This is the rate for Matsushita in the eighth review period (54 FR 13917, April 6, 1989). These deposit requirements are effective for all shipments of Japanese television receivers, monochrome and color, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1)



of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22 (1989).

Dated: January 16, 1990.

Lisa B. Barry

Deputy Assistant Secretary for Import Administration.

[FR Doc. 90-1619 Filed 1-23-90; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-014]

### **Tuners (of the Type Used in Consumer Electronic Products) From Japan, Final Results of Antidumping Duty Administrative Review**

**AGENCY:** International Trade Administration/Import Administration Department of Commerce.

**ACTION:** Notice of final results of antidumping duty administrative review.

**SUMMARY:** On November 6, 1989, the Department of Commerce published the preliminary results of its antidumping duty administrative review on tuners (of the type used in consumer electronic products) from Japan. The review covers exports of this merchandise to the United States by Kanematsu-Gosho Ltd., an export agent of Alps Electric Co., Ltd., and the period December 1, 1987 through November 30, 1988.

We gave interested parties an opportunity to comment on our preliminary results. We received no comments. The final results of review are unchanged from those presented in the preliminary results.

**EFFECTIVE DATE:** January 24, 1990.

**FOR FURTHER INFORMATION CONTACT:** Sheila Forbes or Robert Marenick, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5255.

**SUPPLEMENTARY INFORMATION:**

#### **Background**

On November 6, 1989, the Department of Commerce ("the Department") published in the *Federal Register* (54 FR 46640) the preliminary results of its administrative review of the antidumping duty finding on tuners (of the type used in consumer electronic products) from Japan (35 FR 18914, December 12, 1970). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

#### **Scope of the Review**

Imports covered by the review are shipments of tuners (of the type used in consumer electronic products) consisting primarily of television receiver tuners and tuners used in radio

receivers such as household radios, stereo and high fidelity radio systems, and automobile radios. They are virtually all in modular form, aligned and ready for simply assembly in the consumer electronic product for which they were designed. The term "consumer electronic product" includes television sets, radios, and other electronic products of the type commonly bought at retail by household consumers, whether or not used in or around the household. Excluded are complete stereophonic tuners which are consumer products themselves, but not excluded are modular-type stereophonic tuners. During the review period, such merchandise was classifiable under item 685.0200 and 685.3300 of the Tariff Schedules of the United States Annotated ("TSUSA"). This merchandise is currently classifiable under HTS items 8529.90.10 and 8529.90.50. The HTS and TSUSA item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the exports of Japanese tuners to the United States, by Kanematsu-Gosho Ltd., an export agent of Alps Electric Co., Ltd., and the period December 1, 1987 through November 30, 1988.

#### **Final Results of the Review**

We invited interested parties to comment on the preliminary results. We received no comments. Based on our analysis, the final results of review are the same as the preliminary results of review, and we determine that there were no shipments of merchandise subject to the antidumping finding to the United States by Kanematsu-Gosho, Ltd., for the period December 1, 1987 through November 30, 1988, because all such merchandise was produced and sold for export to the U.S. by Alps Electric Co., Ltd., for which the finding was revoked on February 23, 1987 (52 FR 5478). Kanematsu-Gosho, Ltd., merely acted as an export agent for Alps Electric Co., Ltd. during the review period.

As provided for by section 751(a)(1) of the Tariff Act, no cash deposit of estimated antidumping duties shall be required on entries of tuners shipped through Kanematsu-Gosho, Ltd., if the merchandise is produced and sold for export by Alps Electric Co., Ltd. A cash deposit of estimated antidumping duties of 23.86 percent shall be required on entries of tuners sold by Kanematsu-Gosho, Ltd., if the merchandise is produced and sold for export by any manufacturer other than Alps Electric Co., Ltd., except for those manufacturers and exporters for which the finding was

previously revoked. For any future shipments of this merchandise from the remaining known manufacturers/exporters not covered in this review, the cash deposit will continue to be at the rate published in the final results of the last administrative review of those firms. For any future entries of this merchandise from a new exporter not covered in this or prior administrative reviews, whose first shipments occurred after November 30, 1988, and who is unrelated to any of the reviewed firms, or any previously reviewed firms, no cash deposit shall be required. These deposit requirements are effective for all shipments of Japanese tuners (of the type used in consumer electronic products) entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)), and § 353.22a of the Commerce Department's regulations 19 CFR 353.22a (1989).

Dated: January 17, 1990.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 90-1620 Filed 1-23-90; 8:45 am]

BILLING CODE 3510-DS-M

### **Articles of Quota Cheese; Annual Listing of Foreign Government Subsidies**

**AGENCY:** International Trade Administration/Import Administration Department of Commerce.

**ACTION:** Publication of annual list of foreign government subsidies on articles of quota cheese.

**SUMMARY:** The Department of Commerce, in consultation with the Secretary of Agriculture, has prepared its annual list of foreign government subsidies on articles of quota cheese. We are publishing the current listing of those subsidies that we have determined exist.

**EFFECTIVE DATE:** January 1, 1990.

**FOR FURTHER INFORMATION CONTACT:** Patricia W. Stroup or Paul J. McGarr, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377-2786.

**SUPPLEMENTARY INFORMATION:** Section 702(a) of the Trade Agreements Act of 1979 ("the TAA") requires the Department of Commerce ("the Department") to determine, in



consultation with the Secretary of Agriculture, whether any foreign government is providing a subsidy with respect to any article of quota cheese, as defined in section 701(c)(1) of the TAA, and to publish an annual list and quarterly updates of the type and amount of those subsidies.

The Department has developed, in consultation with the Secretary of Agriculture, information on subsidies (as defined in section 702(h)(2) of the TAA) being provided either directly or indirectly by foreign governments on

articles of quota cheese. The appendix to this notice lists the country, the subsidy program or programs, and the gross and net amount of each subsidy on which information is currently available.

The Department will incorporate additional programs which are found to constitute subsidies, and additional information on the subsidy programs listed, as the information is developed.

The Department encourages any person having information on foreign government subsidy programs which benefit articles of quota cheese to

submit such information in writing to the Assistant Secretary for Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

This determination and notice are in accordance with section 702(a) of the TAA (19 U.S.C. 1202 note).

Dated: January 17, 1990.

Eric L. Garfinkel,

Assistant Secretary for Import Administration.

#### APPENDIX—QUOTA CHEESE SUBSIDY PROGRAMS

Country	Program(s)	Gross subsidy <sup>1</sup> (\$/lb.)	Net subsidy <sup>2</sup> (\$/lb.)
Belgium	European community (EC) restitution payments	37.1	37.1
Canada	Export assistance on certain types of cheese	29.7	29.7
Denmark	EC restitution payments	46.5	46.5
Finland	Export subsidy	112.1	112.1
	Indirect subsidies	21.2	21.2
France	EC restitution payments	133.3	133.3
Greece	EC restitution payments	43.5	43.5
Ireland	EC restitution payments	30.2	30.2
Italy	EC restitution payments	64.0	64.0
Luxembourg	EC restitution payments	56.5	56.5
Netherlands	EC restitution payments	37.1	37.1
Norway	EC restitution payments	38.3	38.3
	Indirect (Milk) subsidy	17.6	17.6
	Consumer subsidy	39.0	39.0
Portugal	Consumer subsidy	56.6	56.6
Spain	EC restitution payments	37.2	37.2
Switzerland	EC restitution payments	40.3	40.3
U.K.	Deficiency payments	90.0	90.0
W. Germany	EC restitution payments	43.2	43.2
	EC restitution payments	46.3	46.3

<sup>1</sup> Defined in 19 U.S.C. 1677(5).

<sup>2</sup> Defined in 19 U.S.C. 1677(6).

[FR Doc. 90-1622 Filed 1-23-90; 8:45 am]

BILLING CODE 3510-DS-M

## DEPARTMENT OF DEFENSE

### Department of the Air Force

#### USAF Scientific Advisory Board Meeting

January 16, 1990.

The USAF Scientific Advisory Board Logistics Cross-Matrix Panel will meet on 7-8 February 1990, from 8 a.m. to 5 p.m., at the San Antonio Air Logistics Center, Kelly AFB, Texas.

The purpose of this meeting will be to review the AFLC Automatic Test Equipment (ATE) Program. The meeting at the San Antonio Air Logistics Center will involve discussions of classified defense matters listed in section 552b(c) of title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-8845.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 89-1523 Filed 1-23-89; 8:45 am]

BILLING CODE 3910-01-M

## DEPARTMENT OF EDUCATION

### Proposed Information Collection Requests

**AGENCY:** Department of Education.

**ACTION:** Notice of Proposed Information Collection Requests.

**SUMMARY:** The Director, Office of Information Resources Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

**DATE:** Interested persons are invited to submit comments on or before February 23, 1990.

**ADDRESSES:** Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Jim Houser, Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to George P. Sotos, Department of Education, 400 Maryland Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202.

**FOR FURTHER INFORMATION CONTACT:** George P. Sotos (202) 732-2174.

**SUPPLEMENTARY INFORMATION:** Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public



consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Office of Information Resources Management, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following:

(1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from George Sotos at the address specified above.

Dated: January 18, 1990.

**Carlos Rice,**

Director for Office of Information Resources Management.

#### Office for Civil Rights

*Type of Review:* Reinstatement

*Title:* Fall 1990 Elementary and

Secondary School Civil Rights Survey

*Frequency:* Biennially

*Affected Public:* State or local governments

*Reporting Burden:*

Responses: 39,000

*Burden Hours:* 273,700

*Recordkeeping Burden:*

Recordkeepers: 0

*Burden Hours:* 0

*Abstract:* This survey will collect information to be used by the Office of Civil Rights to aid in identifying sites for compliance reviews and to track and issues related to civil rights compliance. The Department uses this information to make its annual report to Congress.

#### Office of Postsecondary Education

*Type of Review:* Revision

*Title:* Fiscal Operations Report and

Application to Participate in the

Perkins Loan, Supplemental

Educational Opportunity Grant, and

College Work-Study Programs

*Frequency:* Annually

*Affected Public:* State and Local

Government, businesses or other for-

profit, non-profit Institutions

*Reporting Burden:*

Responses: 5,300

*Burden Hours:* 142,781

*Recordkeeping Burden:*

Recordkeepers: 5,300

#### Burden Hours: 5

*Abstract:* Under the Higher Education Act of 1965, as amended, institutions are required to annually apply for, and subsequently report the expenditures of, the Perkins Loan (formerly the National Direct Student Loan), the Supplemental Educational Opportunity Grant, and the College Work Study Programs. The data collected on the report and application will be used to assess program effectiveness and accountability of funds expended during the award period 1989-90 and to compute the amount of funds needed by each institution during the 1991-92 award year.

[FR Doc. 90-1533 Filed 1-23-90; 8:45 am]

BILLING CODE 4000-1-M

#### Joint Meeting of Subcommittees of the National Assessment Governing Board

**AGENCY:** National assessment governing board, Department of Education.

**ACTION:** Notice of meeting.

**SUMMARY:** This notice sets forth the schedule and proposed agenda of the forthcoming joint meeting of the Technical Methodology and the Analysis and Dissemination Subcommittees of the National Assessment Governing Board. This notice also describes the functions of the Board. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

**DATE:** Friday, February 9, 1990.

Time: 11:00 a.m. (e.s.t.) until adjournment.

Place: 1100 L Street, NW., Suite 7322, Washington, DC

#### FOR FURTHER INFORMATION CONTACT:

Roy Truby, Executive Director, National Assessment Governing Board, Suite 7322, 1100 L Street, NW., Washington, DC, 20005-4013, Telephone: (202) 357-6938.

**SUPPLEMENTARY INFORMATION:** The National Assessment Governing Board is established under section 406(i) of the General Education Provisions Act (GEPA) as amended by section 3403 of the National Assessment of Educational Progress Improvement Act (NAEP Improvement Act), Title III-C of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvements Amendments of 1988 (Pub. L. 100-297). (20 U.S.C. 1221e-1).

The Board is established to advise the Commissioner of the National Center for Education Statistics on policies and

actions needed to improve the form and use of the National Assessment of Educational Progress, and develop specifications for the design, methodology, analysis and reporting of test results. The Board also is responsible for selecting subject areas to be assessed, identifying the objectives for each age and grade tested, and establishing standards and procedures for interstate and national comparisons. The Analysis and Reporting and Technical Methodology Committees of the National Assessment Governing Board will meet via teleconference in Washington, DC on February 9, 1990 from 11:00 a.m. (e.s.t.) until the completion of business. Because this is a teleconference meeting, facilities will be provided so the public will have access to the Committee's deliberations. The purpose of this meeting is to review progress on the following matters: (1) NAGB policy for reporting, (2) NAEP timelines, (3) opportunity to learn timelines, (4) cross-sectional analysis, and (5) alternatives to multiple choice format.

Records are kept of all Board proceedings and are available for public inspection at the U.S. Department of Education, National Assessment Governing Board, 1100 L Street, NW., Washington, DC from 8:30 a.m. to 5:00 p.m., Monday through Friday.

**Christopher T. Cross**

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 90-1548 Filed 1-23-90; 8:45 am]

BILLING CODE 4000-01-M

#### DEPARTMENT OF ENERGY

##### Federal Energy Regulatory Commission

[Project No. 10773-000]

#### Alaska Aquaculture, Inc.; Availability of the Environmental Assessment

January 12, 1990.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47827), the Office of Hydropower Licensing has reviewed the application for a minor license for the proposed Burnett River Hatchery Project located on Burnett River in the First Judicial District, Alaska and has prepared an Environmental Assessment (EA) for the project. In the EA, the Commission's staff has analyzed the potential environmental impacts of the proposed project and has concluded that



approval of the proposed project, with appropriate mitigation measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, Room 1000, of the Commission's offices at 825 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,  
Secretary.

[FR Doc. 90-1542 Filed 1-23-90; 8:45 am]

BILLING CODE 6717-01-M

**[Project Nos. 5276-000 and 9705-000] New York**

January 12, 1990

**Niagara Mohawk Power Corp. and Bakers Falls Corp.; Availability of Environmental Assessment**

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the competing applications for a major license for the proposed Hudson Falls Project located on the Hudson River, in Saratoga and Washington Counties, New York, and has prepared a draft Environmental Assessment (EA) for the competing proposals.

In the EA, the Commission's staff has analyzed the potential environmental impacts of the proposals, compared them, and recommends licensing Niagara Mohawk Power Corporation's proposal, concluding that proposal, with the mitigative measures the staff has recommended, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, Room 1000, of the Commission's offices at 825 North Capitol Street, NE., Washington, DC 20426.

Comments should be filed within 30 days from the date of this notice and should be addressed to Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Please affix Project Nos. 5276 and 9705 to all comments. For further information, please contact J.T. Griffin, Environmental Assessment Coordinator, at (202) 357-0799.

Lois D. Cashell,  
Secretary.

FR Doc. 90-1543 Filed 1-23-90; 8:45 am]

BILLING CODE 6717-01-M

**[Project Nos. 10288-002, 35 et al.]**

**Cascade River Hydro, et al., Surrender of Preliminary Permits and Exemptions**

January 16, 1989.

Take notice that the following preliminary permits/exemptions have been surrendered effective as described in Standard Paragraph I at the end of this notice.

**1. Cascade River Hydro**

[Project No. 10288-002]

Take notice that Cascade River Hydro, permittee for the Marble Creek Project located on Marble Creek in Skagit County, Washington, has requested that its preliminary permit be terminated. The preliminary permit was issued on June 30, 1987, and would have expired on May 31, 1990. The permittee states that analysis of the Marble Creek Project did not indicate feasibility for development.

The permittee filed the request on December 15, 1989.

**2. Cascade River Hydro**

[Project No. 10258-002]

Washington

Take notice that Cascade River Hydro, permittee for the proposed Sonny Boy Creek Project located on Sonny Boy Creek in Skagit County, Washington, has requested that its preliminary permit be terminated. The preliminary permit was issued on June 30, 1987, and would have expired on May 31, 1990. The permittee states that analysis of the Sonny Boy Project did not indicate feasibility for development.

The permittee filed the request on December 12, 1989.

**3. Washington Hydro Development Co.**

[Project No. 10257-002]

Washington

Take notice that the Washington Hydro Development Company, permittee for the proposed Boulder Creek Project located on Boulder Creek in Whatcom County, Washington, has requested that its preliminary permit be terminated. The preliminary permit was issued on June 30, 1987, and would have expired on May 31, 1990. The permittee states that analysis of the Boulder Creek Project did not indicate feasibility for development.

The permittee filed the request on December 12, 1989.

**4. Cascade River Hydro**

[Project No. 10274-002]

Washington

Take notice that Cascade River Hydro, Permittee for the Sibley Creek

Project No. 10274, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 10274 was issued June 30, 1987, and would have expired May 31, 1990. The project would have been located on Sibley Creek within the Snoqualmie-Mt. Baker National Forest in Skagit County, Washington.

The Permittee filed the request on December 12, 1989.

**5. Cascade River Hydro**

[Project No. 10266-002]

Washington

Take notice that Cascade River Hydro, permittee for the proposed Found Creek Project located on Found Creek in Skagit County, Washington, has requested that its preliminary permit be terminated. The preliminary permit was issued on June 30, 1987, and would have expired on May 31, 1990. The permittee states that analysis of the Found Creek Project did not indicate feasibility for development.

The permittee filed the request on December 15, 1989.

**Standard Paragraphs:**

I. The preliminary permit/exemption shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR § 385.2007 in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR part 4, may be filed on the next business day.

Lois D. Cashell,  
Secretary.

[FR Doc. 90-1544 Filed 1-23-90; 8:45 am]

BILLING CODE 6717-01-M

**[Docket TM90-4-22-000]**

**CNG Transmission Corp.; Proposed Changes in FERC Gas Tariff**

January 17, 1990.

Take notice that CNG Transmission Corporation ("CNG"), on January 12, 1990, pursuant to section 4 of the Natural Gas Act, the Stipulation and Agreement approved by the Commission on October 6, 1989, in Docket Nos. RP88-217, et al. and section 12.9 of the General Terms and Conditions of CNG's tariff, filed the following revised tariff sheet to Original Volume No. 1 of its FERC Gas Tariff:

Fourth Revised Sheet No. 44



The filing is proposed to become effective on February 1, 1990.

CNG states that the purpose of this filing is to flow through additional supplier take-of-pay costs allocated to CNG by Tennessee Gas Pipeline Company's filing Docket Nos. RP90-48-000 and RP88-191-016 which was conditionally accepted by Commission order issued December 29, 1989.

Copies of the filing were served upon CNG's sales customers as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a protest or motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All motions or protests should be filed on or before January 24, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-1536 Filed 1-23-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-167-015]

**Columbia Gulf Transmission Co.; Notice of Filing**

January 17, 1990.

Take notice that on January 11, 1990, Columbia Gulf Transmission Company (Columbia Gulf) filed certain tariff sheets to its FERC Gas Tariff, Original Volume No. 1, to be effective November 1, 1989.

Columbia Gulf states that the tariff sheets in this filing administratively correct certain clerical errors in its compliance filing made on November 20, 1989.

Columbia Gulf states that copies of filing have been served upon jurisdictional customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211 (1989)). All such protests should be filed on or before January 24, 1990. Protests

will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-1537 Filed 1-23-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-29-002]

**The Inland Gas Co. Inc.; Compliance Filing**

January 17, 1990.

Take notice that on January 5, 1990, The Inland Gas Company (Inland), filed Substitute Alternate Fifth Revised Sheet No. 10 to its FERC Gas Tariff, First Revised Volume No. 1, to be effective December 1, 1989.

Inland states that this tariff sheet corrects a typographical error under the "Total Effective Rate" column, which had inadvertently stated a maximum rate for Rate Schedule ITS of "1,1784." It states that the correct notation should be "1.1784."

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211 (1989)). All such protests should be filed on or before January 24, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-1538 Filed 1-23-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-181-009]

**Sea Robin Pipeline Co.; Proposed Changes in FERC Gas Tariff**

January 17, 1990.

Take notice that Sea Robin Pipeline Company (Sea Robin) on January 5, 1990, tendered for filing the following tariff sheets as part of its FERC Gas Tariff, Original Volume No. 1 and 2:

**Original Volume No. 1**

Substitute Original Sheet No. 23-B

Substitute Original Sheet No. 23-C

Original Sheet No. 23-D

Original Sheet No. 23-E

**Original Volume No. 2**

Second Substitute Thirty-Sixth Revised Sheet No. 127-D

Sea Robin states that this filing is made in compliance with a Letter Order Pursuant to § 375.307(b)(1), (b)(2), and (b)(3), by the Office of Pipeline and Producer Regulations, dated December 5, 1989.

Sea Robin states that contained in the above-reverenced tariff sheets are resolutions to several issues raised in the Letter Order, including clarification of when overrun takes of gas within contract demand are to be considered authorized or unauthorized. Also addressed in the tariff sheets is the proper advance notice period necessary to obtain authorized overrun service. Finally, the misstatement of the base tariff rate for the x-7 Rate Schedule is corrected to reflect the proper rate.

Any person desiring to protest said filing should file a protest with the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, on or before January 24, 1990, and in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.211 and 385.214). Such motion will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-1539 Filed 1-23-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-71-000]

**Williams Natural Gas Co.; Proposed Changes in FERC Gas Tariff**

January 17, 1990.

Take notice that on January 11, 1990, Williams Natural Gas Company (WNG) submitted the following tariff sheets to revise its FERC Gas Tariff:

**Original Volume No. 1**

Nineteenth Revised Sheet No. 6

Fifth Revised Sheet No. 6A

Original Sheet Nos. 6H, 6I and 6J

Eighteenth Revised Sheet No. 7

Fifth Revised Sheet Nos. 31 and 38



Third Revised Sheet No. 105  
Second Revised Sheet No. 106  
Third Revised Sheet Nos. 107-109

**Original Volume No. 2**

Fourth Revised Sheet No. 133  
Third Revised Sheet Nos. 150 and 192  
Sixth Revised Sheet No. 309

WNG states that the above tariff sheets are being filed to institute a supplemental fixed charge which will allow WNG to collect from its firm jurisdictional sales customers (in conjunction with the currently authorized fixed charge) 100 percent of the take-or-pay buyout, buydown and contract reformation costs in WNG's Docket Nos. RP89-140, RP89-195 and RP89-233, other than costs already collected by the volumetric charges previously authorized in those dockets. WNG has requested an effective date of February 11, 1990.

WNG states that copies of the filing were served on each of WNG's customers and interested state commissions.

WNG requests that the Commission grant any such waivers of the regulations as may be required to permit the above listed tariff sheets to become effective February 1, 1990.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20246, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be mailed on or before January 24, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-1540 Filed 1-23-90; 8:45 am]

BILLING CODE 6717-01-M

**ENVIRONMENTAL PROTECTION AGENCY**

[FRL-3716-6]

**Decision Pursuant to the Clean Water Act**

**AGENCY** U.S. Environmental Protection Agency.

**ACTION:** Notice of extension of public comment and petition period.

**SUMMARY:** On August 22, 1989, EPA, Region 9, published in the *Federal Register* (54 FR 34818) notice that it had issued its decision on the lists of waters, point sources, and pollutants submitted by the State of Arizona pursuant to section 304(1) of the Clean Water Act (CWA). By that notice EPA informed the public that it would be accepting comments from interested parties on its proposal to modify the lists submitted by Arizona until December 29, 1989, and would be accepting petitions from the public to list additional waters until December 29, 1989.

This notice is to advise the public that EPA, Region 9, has decided to extend this public comment and petition period. This decision is a result of formal requests for extension submitted to EPA Region 9 by Pima County, AZ and the City of Phoenix, AZ. The close of the comment period has now been extended to February 1, 1990.

**ADDRESS:** Comments and petitions should be mailed to the following address: Harry Seraydarian, Director, Water Management Division, U.S. EPA Region 9, 215 Fremont Street, San Francisco, CA 94105.

**FOR FURTHER INFORMATION CONTACT:** Douglas Eberhardt, 304(1) Coordinator, in care of: Dr. Kay Johnson, Tetra-Tech, Inc., (415) 283-3771.

Dated: December 29, 1989.

Harry Seraydarian,  
Division Director, Water Management  
Division, U.S. EPA Region 9.

[FR Doc. 90-1586 Filed 1-23-90; 8:45 am]

BILLING CODE 6560-50-M

**FEDERAL COMMUNICATIONS COMMISSION**

[DA 90-28]

**Comments Invited on Washington, DC Metropolitan Area Regional Public Safety Plan**

January 17, 1990.

The Commission has received the public safety radio communications plan for the Washington, DC Metropolitan Area (Region 20).

In accordance with the Commission's Report and Order in General Docket 87-112 implementing the Public Safety National Plan, parties are hereby given thirty days from the date of *Federal Register* publication of this public notice to file comments and fifteen days to reply to any comments filed. (See Report and Order, General Docket 87-112, 3 FCC Rcd 905 (1987), at paragraph 54.)

In accordance with the Commission's Memorandum Opinion and Order in

General Docket 87-112, Region 20 consists of the following counties: Arlington, Fairfax, Fauquier, Loudoun, Prince William and Stafford Counties, Virginia, Washington, DC, and the State of Maryland. General Docket 87-112, 3 FCC Rcd 2113 (1988).

Comments should be clearly identified as submissions to General Docket 90-7, Washington, DC Metropolitan Area—Region 20, and commenters should send an original and five copies to the Secretary, Federal Communications Commission, Washington, DC 20554.

Questions regarding this public notice may be directed to Maureen Cesaitis, Private Radio Bureau, (202) 632-6497, or Fred Thomas, Office of Engineering and Technology, (202) 653-8112.

Federal Communications Commission.

Donna R. Searcy,  
Secretary.

[FR Doc. 90-1528 Filed 1-23-90; 8:45 am]

BILLING CODE 6712-01-M

**Applications for Consolidated Hearing; Special Markets Media, Inc., et al.**

1. The Commission has before it the following groups of mutually exclusive applications for two new FM stations:

TABLE I

Applicant and city/state	File No.	MM docket No.
A. Special Markets Media, Inc., Area Radio, Inc., Raleigh, NC.	BPH-860703MH	88-306

*Issue Heading and Applicants*

1. Environmental, A
2. Comparative, A
3. Ultimate, A

TABLE II

Applicant and city/state	File No.	MM docket No.
A. Hawthorne FM Partnership and Hawthorne, Nevada.	BPH-881122MO	89-555

*Issue Heading and Applicant*

1. See Appendix, A
2. See Appendix, A
3. See Appendix, A
4. See Appendix, A



TABLE III

Applicant and city/ state	File No.	MM docket No.
A. Susan E. Turgetto, Sutter Creek, CA.	BPH-850711MP	89-575
B. Jane A. Filler, d/ b/a Sutter Creek Radio, Sutter Creek, CA.	BPH-850712NF (Previously dismissed, Reinstated Herein)	

*Issue Heading and Applicants*

1. City Coverage, B
2. Comparative, A,B
3. Ultimate, A,B

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

3. If there is any non-standardized issue in this proceeding, the full text of the issue and the applicants to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037, (Telephone (202) 857-3800).

W. Jan Gay,

Assistant Chief, Audio Services Division,  
Mass Media Bureau.

*Appendix (Hawthorne, Nevada)*

1. To determine whether Sonrise Management Services, Inc. is an undisclosed party-in-interest of A's (Hawthorne's).
2. To determine whether A's (Hawthorne's) organizational structure is a sham.
3. To determine whether A (Hawthorne) violated § 1.65 of the Commission's Rules and/or lacked candor by failing to report the designation of character issues against other applicants in which one or more of its partners has an ownership interest and/or the dismissal of such applications with unresolved character issues pending.
4. To determine, from the evidence

adduced pursuant to Issues 1 through 3 above, whether A (Hawthorne) possesses the basic qualifications to be a licensee of the facilities sought therein.

[FR Doc. 90-1529 Filed 1-23-90; 8:45 am]

BILLING CODE 6712-01-M

### Applications for Consolidated Hearings; Stone Broadcasting Corp. et al

1. The Commission has before it the following mutually exclusive applications for two new FM stations:

TABLE I

Applicant and city/ state	File No.	MM docket No.
A. Stone Broadcasting Corporation, Emporia, VA.	BPH-880113MC	89-607
B. Roberts Broadcasting Corporation, Emporia, VA.	BPH-880114MX	

*Issue Heading and Applicants*

1. Financial Qualifications, B
2. Comparative, A, B
3. Ultimate, A, B

TABLE II

Applicant and city/ state	File No.	MM docket No.
A. Raymond J. & Jean-Marine Strong, Bartlett, TN.	BPH-871223MQ	89-606
B. Robert C. Byrd, Milton J. Rogers and Harold W. Byrd, A General Partnership, d/b/ a Bartlett Media, Bartlett, TN.	BPH-871224MC	
C. Richard P. Bott, Bartlett, TN.	BPH-871224ME	
D. Belz Broadcasting Co., Bartlett, TN.	BPH-871224MI	
E. Greater Memphis Broadcast Limited Partnership, Bartlett, TN.	BPH-871228MM	

*Issue Heading and Applicants*

1. See Appendix, E
  2. See Appendix, E
  3. See Appendix, E
  4. Air Hazard, C, E
  5. Ultimate, A-E
  6. Comparative, A-E
2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have

been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

3. If there are any non-standardized issues in this proceeding, the full text of the issue and the applicants to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037, (Telephone (202) 857-3800).

W. Jan Gay,

Assistant Chief, Audio Services Division,  
Mass Media Bureau.

*Appendix (Bartlett, Tennessee)*

1. To determine whether Sonrise Management Services, Inc. is an undisclosed party to the application of E (CMB).
2. To determine whether E's (CMB) organizational structure is a sham.
3. To determine, from the evidence adduced pursuant to Issues 1 through 2 above, whether E (CMB) possesses the basic qualifications to be a licensee of the facilities sought herein.

[FR Doc. 90-1530 Filed 1-23-90; 8:45 am]

BILLING CODE 6712-01-M

### Applications for Consolidated Hearing; Yu-Hay Kong, et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant and city/ state	File No.	MM Docket No.
A. Yu-Hay Kong, d/ b/a Chinese Radio Service, Sacramento, CA.	BPH-871109MA	89-543
B. Echonet Corporation, Sacramento, CA.	BPH-871109MD	
C. Esteban Don Lizardo and Matt Franch, d/b/a Lizardo-Franch Partnership, Sacramento, CA.	BPH-871109MF	



Applicant and city/ state	File No.	MM Docket No.
D. David Mark Jonsson, Sacramento, CA.	BPH-871109MN	
E. Susan Marszal, Sacramento, CA.	BPH-871110ME	
F. Media West Broadcast Group, Inc., Sacramento, CA.	BPH-871110MF	
G. Michael Luckoff, Sacramento, CA.	BPH-871110MG	
H. Old Town Broadcasting Corporation, Sacramento, CA.	BPH-871110MI	
I. Maureen Vega et al., d/b/a The Vega FM Group, Sacramento, CA.	BPH-871110ML	
J. Rio Americano Communications Corp., Sacramento, CA.	BPH-871110MM	
K. Nicholas Henderson and Raveesh Kumra, d/b/a Sacramento Broadcasting Company, Sacramento, CA.	BPH-871110MN	
L. Capitol Broadcasting, Inc., Sacramento, CA.	BPH-871110MS	
M. One-O-Three Broadcasting Co., Inc., Sacramento, CA.	BPH-871110MT	
N. Margaret M. Marston Obenauf, Sacramento, CA.	BPH-871110MX	
O. Olympic Broadcasters, Inc., Sacramento, CA.	BPH-871110MY	
P. Fahida Broadcasting Company, a California Limited Partnership, Sacramento, CA.	BPH-871110NB	
Q. California Broadcast Partnership, Sacramento, CA.	BPH-871110NC	
R. Old Sacramento Broadcasting Co., Inc., Sacramento, CA.	BPH-871110NJ	
S. JAM FM Limited Partnership, Sacramento, CA.	BPH-871110NL	
T. Jack L. Powell, Sacramento, CA.	BPH-871110NM	
U. American Sierra Broadcasting, Inc., Sacramento, CA.	BPH-871110NN	
V. Rio De Oro Communications, Inc., Sacramento, CA.	BPH-871110NO	
W. Sacramento FM Broadcasters Limited Partnership, Sacramento, CA.	BPH-871110NQ	
X. George K. Fung, Sacramento, CA.	BPH-871110NU	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

#### Issue Heading and Applicants

1. Air Hazard, G
2. (See Appendix), Q
3. (See Appendix), Q
4. (See Appendix), Q
5. (See Appendix), Q
6. Environmental, R
7. Comparative, All Applicants
8. Ultimate All Applicants

3. If there is any non-standardized issue in this proceeding, the full text of the issue and the applicants to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037. (Telephone (202) 857-3800.)

W. Jan Gay,

Assistant Chief, Audio Services Division,  
Mass Media Bureau.

#### Appendix

2. To determine whether Sunrise Management Services, Inc. is an undisclosed party to Q (CBP)'s application.

3. To determine whether Q (CBP)'s organizational structure is a sham.

4. To determine whether Q (CBP) violated § 1.65 of the Commission's Rules and/or lacked candor by failing to report: (i) The designation of character issues against other applicants in which several of its owners have an ownership interest, and (ii) the dismissal of such applications with unresolved character issues pending.

5. To determine, from the evidence adduced pursuant to issues 2 through 4 above, whether Q (CBP) possesses the basic qualifications to be a licensee of the facilities sought herein.

[FR Doc. 90-1531 Filed 1-23-90; 8:45 am]

BILLING CODE 6712-01-M

## FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

[Docket No. AS90-1]

### Guidelines Regarding State Certification and Licensing of Appraisers

AGENCY: Appraisal Subcommittee,  
Federal Financial Institutions  
Examination Council.

ACTION: Notice of guidelines.

**SUMMARY:** The Appraisal Subcommittee of the Federal Financial Institutions Examination Council ("Appraisal Subcommittee") is issuing this notice of guidelines to assist the states in establishing appropriate organizational structures for licensing and certifying appraisers.

These guidelines are intended to (1) facilitate timely implementation of the provisions of Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, (2) promote the independence of the state appraisal regulatory function, (3) reduce conflicts of interest, and (4) address concerns regarding the issues of grandfathering and dual licensing.

This notice of guidelines provides states and interested persons with copies of the guidelines and affords them an opportunity to comment. The Appraisal Subcommittee will carefully review the comments received and may issue modified guidelines if necessary.

**DATE:** Comments must be received on or before March 6, 1990.

**ADDRESS:** All comments should be sent to the Appraisal Subcommittee, ATTN: Keith Todd—Docket No. AS90-1, Federal Financial Institutions Examination Council, 1776 G Street, Washington, DC 20006.

**FOR FURTHER INFORMATION CONTACT:** Written inquiries regarding this notice can be sent ATTN: Keith Todd—APPRAISAL INQUIRY to the address listed above.

**SUPPLEMENTARY INFORMATION:** Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 ("Title XI"), Public Law No. 101-73, 103 Stat. 183, 511 (1989) provides that states may establish a state appraiser certifying and licensing agency to assure availability of appraisers for federally related transactions, and to assure effective supervision of those appraisers. Title XI also established the Appraisal Subcommittee whose responsibilities, among other things, include monitoring the state appraiser certification and licensing systems.



In order to facilitate implementation of Title XI, the Appraisal Subcommittee is issuing these guidelines for use by the states in discharging their functions and responsibilities under the statute.

This notice of guidelines advises the states and interested persons of the content of the guidelines and affords an opportunity to comment on them. The Appraisal Subcommittee will carefully review the comments received and may issue modified guidelines if necessary.

Dated: January 18, 1990.

Kevin Blakely,

Chair, Appraisal Subcommittee, Federal Financial Institutions Examining Council.

#### **Appraisal Subcommittee Guidelines Regarding State Certification and Licensing of Appraisers**

Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) establishes an Appraisal Subcommittee of the Federal Financial Institutions Examination Council. The responsibilities of the Appraisal Subcommittee include, among other things, monitoring the appraiser certifying and licensing agencies, which states may establish to carry out the purposes of title XI. Section 1116(d) of this title instructs the Subcommittee not to recognize appraiser certifications and licenses from states whose appraisal policies, practices or procedures are found to be inconsistent with title XI.

The legislative history accompanying title XI indicates that states should adopt an organizational structure for implementing their appraiser licensing, certification and supervision functions that avoids potential conflicts of interest. Recognizing that each state has fiscal constraints or other factors that could influence the structure and location of the agency charged with licensing and certifying appraisers, the legislative history also indicates a desire to avoid imposing any particular organizational structure upon the states. However, while this suggests that a state could choose to locate the appraisal regulatory function in the same department as the regulation of real estate licensing, promotion, development or financing functions (hereinafter "realty related activities"), the organizational structure of the department must provide adequate safeguards to ensure that the appraisal regulatory function is independent of realty related activities.

In response to numerous requests from states and other interested parties, the Subcommittee is issuing these guidelines to assist the states, territories and the District of Columbia in the establishment of appropriate

organizational structures for licensing and certifying appraisers. The guidelines are intended to facilitate the implementation of title XI, promote the independence of the appraisal regulatory function, reduce conflicts of interest, and address the grandfathering and dual licensing of appraisers. Given the importance of these objectives, the Subcommittee will accept and consider public comments on the issues addressed by these guidelines.

#### **Guidelines**

##### **Location of the Agency**

The Subcommittee believes it is preferable that the certification and licensing function be established as a totally independent regulatory agency answerable to the governor or a cabinet level officer who has no regulatory responsibility for realty related activities. (In these guidelines, the appraisal regulatory body will be referred to as the "agency" although it may also be a board, commission, or individual). Such a structure would provide maximum insulation for the agency from influences of any industry or organization whose members have a direct or indirect financial interest in the outcome of the agency's decisions (hereinafter "affected industry").

If, due to fiscal or other constraints, a separate agency is not feasible, the appraisal certification and licensing function should be located within a state regulatory body which is structured to adequately eliminate the influences of an affected industry over the appraisal function.

##### **Appointment of the Agency Head**

The appointment of the agency head or members of the appraisal board should be made by an individual or committee not associated or affiliated with an affected industry. (An individual would be affiliated or associated with an affected industry if the individual had a direct or indirect pecuniary interest in the industry).

*To illustrate:* An autonomous agency head, appointed by the governor and subject to confirmation by the legislature would generally be considered to be properly appointed.

An individual or board chosen by or answerable to a committee or commission comprised of a majority of real estate appraisers, real estate brokers, financial institution executives or other members of an affected industry would not meet the criteria for being independently appointed.

##### **Independence from Affected Industries**

If the agency is directed by an individual, that person should not be actively engaged in the appraisal business or any other affected industry for the term of appointment or employment, and for a reasonable period thereafter.

If the agency is directed by a board or commission, the members of that board should represent the broad public interest, and the statute, regulation, or order creating that body should not permit a majority of the board to come from or be dominated by any one industry or profession. Moreover, after its initial establishment, the composition of the board should continue to remain free from domination by any one industry or profession.

##### **Independence of Decision Making**

Decisions as to whether to license and certify, to discipline or to de-license or de-certify appraisers should not be made by the same state officials whose responsibilities include realty related activities.

Decisions of the state appraiser regulatory agency regarding whether to license or certify, to discipline or to de-license or de-certify appraisers should be final administrative action subject only to appropriate judicial review.

##### **Qualification Criteria**

All appraisers subject to the licensing or certification provisions of title XI must be qualified through appropriate testing and experience requirements established by state law.

*Certified:* Individuals designated as certified real estate appraisers shall have, at a minimum, (1) satisfied the criteria for certification issued by the Appraisal Qualifications Board of the Appraisal Foundation, and, (2) passed a state administered examination which is consistent with the Uniform State Certification Examination issued or endorsed by the Appraisal Qualifications Board of the Appraisal Foundation.

*Licensed:* States should establish meaningful qualification standards for licensed appraisers, including testing, experience and educational requirements that are adequate to demonstrate knowledge and competency.

Additional qualifications for licensing and certification may be required by any state or Federal agency that considers such qualifications necessary to carry out responsibilities under title XI.



**Exemptions and Grandfathering**

No individual or group of individuals shall be deemed exempt from meeting the criteria established for licensing or certification, or be otherwise "grandfathered" into the system. This is not meant to preclude states from recognizing existing licenses or certification designations of individuals who currently meet existing state licensing or certification requirements, provided those requirements are fully consistent with the provisions of title XI.

**Mandatory Dual Licensing**

Consistent with the spirit and intent of title XI, state laws may not require any applicant for appraisal certification or licensing to hold other occupational licenses as a condition of obtaining a license or certification designation as a real estate appraiser.

**Other**

States should ensure that an appropriate code of professional responsibility is incorporated into their certification and licensing requirements.

To ensure that their licensing and certification procedures are not disapproved by the Subcommittee, states should adhere to the provisions set forth in title XI and adopt policies, practices and procedures that are consistent with the purposes of the law. The Subcommittee will exercise the authority granted by title XI to ensure the independence of the appraisal regulatory function within the state systems. The Subcommittee will meet its oversight responsibilities by reviewing each state's compliance with the intent of Title XI in its entirety.

Additional policy guidance may be provided by the Subcommittee, as necessary, to further assist in the effective implementation of title XI.

[FR Doc. 90-1534 Filed 1-23-90; 8:45 am]

BILLING CODE 6210-01-M

**FEDERAL RESERVE SYSTEM****Larry L. Beach, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies**

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal

Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than February 7, 1990.

**A. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President)**  
925 Grand Avenue, Kansas City, Missouri 64198:

1. **Larry L. Beach**, Warsaw, Missouri, to acquire an additional 6.58 percent for a total of 23.40 percent; David and Susan Bentele, Webster Groves, Missouri, to acquire an additional 2.43 percent for a total of 8.65 percent; Larry A. Gerken, Warsaw, Missouri, to acquire an additional 2.28 percent for a total of 8.09 percent; Gene F. Kratschmer, Alton, Illinois, to acquire an additional 2.78 percent for a total of 9.90 percent; Mark and Mary Jo Kratschmer, Alton, Illinois, to acquire an additional 1.54 percent for a total of 5.48 percent; James or Joanne Lampe, Germantown, Illinois, to acquire an additional 3.28 percent for a total of 11.66 percent; William and Julie Glaser, Manchester, Missouri, to acquire an additional 0.21 percent for a total of 0.75 percent; Richard Meyer, St. Louis, Missouri, to acquire an additional 4.22 percent for a total of 15.01 percent; William R. Montgomery, St. Louis, Missouri, to acquire an additional 3.53 percent for a total of 12.56 percent; OBNO Investments, St. Louis, Missouri, to acquire an additional 1.26 percent for a total of 4.51 percent of the voting shares of Mid Central Bancorp., Inc., Warsaw, Missouri, and thereby indirectly acquire Osage Valley Bank, Warsaw, Missouri.

2. **George J. Murphy, Jr.**, Wilmette, Illinois, to acquire 97.08 percent of the voting shares of Paonia financial Services, Inc., Paonia, Colorado, and thereby indirectly acquire Paonia State Bank, Paonia, Colorado.

Board of Governors of the Federal Reserve System, January 18, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-1554 Filed 1-23-90; 8:45 am]

BILLING CODE 6201-01-M

**Lonoke Bancshares, Inc. and First Fabens Bancorp. Inc.; Correction**

This notice corrects a previous Federal Register Notice (FR Doc. 90-925) published at page 1515 of the issue for Tuesday, January 18, 1990.

Under the Federal Reserve Bank of St. Louis, the entry for Lonoke Bancshares, Inc. is amended to read as follows:

1. **Lonoke Bancshares, Inc.**, Lonoke, Arkansas; to become a bank holding company by acquiring 100 percent of the voting shares of First State Bank, Lonoke, Arkansas.

Under the Federal Reserve Bank of Dallas, the entry for First Fabens Bancorporation, Inc. is amended to read as follows:

1. **First Fabens Bancorporation, Inc.**, Fabens, Texas; to acquire 100 percent of the voting shares of Bancshares of Ysleta, Inc., El Paso, Texas, and thereby indirectly acquire Bank of Ysleta, El Paso, Texas.

Comments on these applications must be received by February 5, 1990.

Board of Governors of the Federal Reserve System, January 18, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-1553 Filed 1-23-90; 8:45 am]

BILLING CODE 6210-01-M

**Dennis M. Sobolik; Correction**

This notice corrects a previous Federal Register Notice (FR Doc. 89-28150) published at page 49814 of the issue for Friday, December 1, 1989.

Under the Federal Reserve Bank of Minneapolis, the entry for James B. Ingeman is amended to read as follows:

1. **Dennis M. Sobolik** and Robert K. Severson, both of Hallock, Minnesota, and James B. Ingeman, Crookston, Minnesota; to each acquire up to 25 percent of the outstanding voting shares of Crookston Financial Service, Inc., and thereby indirectly acquire Crookston National Bank, Crookston, Minnesota.

Comments on this application must be received by February 8, 1990.

Board of Governors of the Federal Reserve System, January 18, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-1552 Filed 1-23-90; 8:45 am]

BILLING CODE 6210-01-M

**Mingo Bancshares, Inc., et al.; Formation of; Acquisitions by; and Mergers of Bank Holding Companies**

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications



are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than February 15, 1990.

**A. Federal Reserve Bank of Richmond**  
(Fred L. Bagwell, Vice President),  
701 East Byrd Street, Richmond,  
Virginia 23261.

1. *Mingo Bancshares, Inc.*, Gilbert, West Virginia; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Mingo, Naugatuck, West Virginia.

**B. Federal Reserve Bank of Atlanta**  
(Robert E. Heck, Vice President),  
100 Marietta Street NW., Atlanta,  
Georgia 30303:

1. *Peoples Banking Corporation*, Blackshear, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Peoples Bank, Blackshear, Georgia.

Board of Governors of the Federal Reserve System, January 18, 1990.

Jennifer J. Johnson,

*Associate Secretary of the Board.*

[FR Doc. 90-1555 Filed 1-23-90; 8:45 am]

BILLING CODE 6210-01-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Alcohol, Drug Abuse, and Mental Health Administration

#### State/Multi State Human Resource Development State Human Resource Development Program (SHRD)

Institute: National Institute of Mental Health, HHS.

**ACTION:** Notice of request for applications.

#### Introduction

This Request for Applications (RFA) is an updated reissuance of the FY 1989 RFA.

The State Human Resource Development (SHRD) Program is directed toward improving the availability, distribution, competence, and appropriate utilization of personnel who provide mental health services to severely and chronically mentally ill adults and to seriously emotionally disturbed children and youth, mentally ill offenders, the elderly, and/or minorities. The program promotes linkages between mental health and related service agencies; institutions that educate, train, or otherwise prepare mental health personnel for the delivery of mental health services; and organizations responsible for licensure, certification, and reimbursement policies and processes affecting the deployment and utilization of the mental health services' workforce. It is intended that the State's efforts be concerned with the entire mental health workforce, comprised of professionals and mental health workers (paraprofessionals) in both public service and independent private practice, organized mental health settings, and primary care agencies, especially those settings that are funded, operated, and/or licensed by the States.

#### Purpose

The SHRD Program awards grants to enhance the capacity of State mental health agencies to improve mental health services by supporting human resource development activities at State and multi-State levels.

Support is provided under this mechanism to facilitate the development of a State's human resources development capability to improve or change the mental health delivery system by:

- Addressing realistic and cost-effective approaches to critical workforce issues directed toward the improvement of services to severely and chronically mentally disabled adults, mentally ill offenders, and seriously emotionally disturbed children and youth, the elderly (Minority concerns and issues are intrinsic to all of these special populations), and residents of rural areas.

- Engaging academic institutions and other training agencies, including the historically Black colleges and universities, as significant partners in improving the competence of the mental health services workforce; in designing, implementing, and evaluating human resource development strategy demonstrations; and/or in carrying out other SHRD activities; and developing or improving collaboration with the NIMH Public Academic Liaison program.

- Improving State and local Community Support Programs, Child and Adolescent Service Systems Programs, community-based service programs, and programs for the homeless and other special populations through essential human resource development activities.

- Improving training for mental health State, county, city, and community level administrators, clinical program managers and leaders.

- Promoting the development of training of mental health personnel to provide psychosocial rehabilitation services.

- Promoting increased recruitment and career development of women and minorities.

- Promoting the training, retraining, and career development of mental health workers (paraprofessionals).

- Addressing the special needs of mental health service providers in rural areas and those dislocated as a result of changes in the mental health service delivery system.

#### Eligibility

Only State departments of mental health are eligible to apply for single SHRD grants since they either directly employ the public mental health workforce or control the financial resources to other agencies who employ mental health personnel. Any State, public or private nonprofit organization is eligible to apply for multi-State human resource development grants. Applications for multi-State grants (3 or more States) must have letters of support and commitment from the State mental health authorities of all collaborating States. States or organizations that have and HRD grant that is eligible as a noncompeting continuation (Type 5) are *not* eligible to apply for the same type of support.

#### Availability of Funds

It is expected that approximately \$800,000 to \$1,100,000 will become available for new and competing renewal awards in fiscal year 1990 an approximately 10-12 awards will be made. The maximum level of support for multi-State projects is \$200,000; for a single State project it is \$100,000.

#### Types of Support

In fiscal year 1990, applications for new and competing renewal grants will be accepted. Types of support available are: (A) Single State Special Projects; and (B) Multi-State Resource Projects that are described as follows:



### A. Single State Special Projects

Support may be requested through a Special Project grant for HRD activities that are designed to improve the delivery of mental health services. Such activities may be in the areas of capacity building, workforce management issues, mental health administration, education and training, planning and evaluation, and/or public academic linkage. These projects should support time-limited, problem-solving activities that must be completed by the end of the project period. The activities for which support is requested must have been identified in the State HRD Plan and the State Comprehensive Mental Health Services Plan (Public Law 99-660).

Examples of HRD activities for which support can be requested on a Single State Special Project grant are organized under three major categories: planning and evaluation; workforce management; and education and training.

These categories are not mutually exclusive and are not intended to limit the scope of the proposed project. They provide a conceptual framework for understanding the elements and boundaries of HRD.

- **Education and Training:** The objective of HRD in the education and training area is to ensure that the current and future HRD needs of the State mental health service system are appropriately supported and strengthened by specifically focused time-limited educational activities at every level of training.

Single State Special Project grant support for all education and training activities is for *short-term developmental purposes* and therefore is time-limited. Long-term or maintenance support for education and training efforts developed as a result of a SHRD grant must be assumed by the State or by other education and training entities after they have been developed and pilot tested. Also, all education and training activities for which support is requested must be directed toward public services to priority populations.

This category can include the conduct and evaluation of training and learning needs assessment; the design and development of a targeted training plan for the mental health workforce; and the empowerment or authority to actively pursue the improvement of the mental health workforce that would include the adoption of the necessary policies and the promotion of a supportive administrative environment.

Examples of the areas and related activities for which education and training developmental support can be

requested include but are not limited to the following:

- Academic Linkage:** activities designed, in collaboration with the academic sector, to improve the recruitment and retention of appropriately trained mental health personnel into public mental health agencies.
- Curriculum Development:** activities designed to review existing curricula for relevance and need and the development of new and/or improved curricula to ensure that education and training are responsive to identified priority service needs.
- Special Placement and Practice:** activities designed to encourage special and innovative placement of trainees into the service delivery systems.
- Staff Education and Advancement:** activities designed to provide further professional educational development to allow mental health workers and professionals an opportunity to expand their current field of knowledge and skills. (This area provides for the development of special incentive and advancement programs in conjunction with individual staff development.)

- **Planning and Evaluation:** The ultimate objective of the area of planning and evaluation is to provide the strongest possible rational basis for decisionmaking on mental health human resource development for mental health service delivery. The planning and evaluation function should continuously identify mental health human resource development issues and problems within the State mental health services system, develop options to address these issues and problems, and evaluate the strength of these options. The planning and evaluation function should introduce human resource development considerations and implications in the development and implementation of policies of the State mental health agency. Finally, because of the relationship between services and human resources, planning and evaluation for human resource development should be incorporated into mental health services planning in the State.

Examples of the areas and related activities for which planning and evaluation developmental support can be requested include but are not limited to:

- Data Systems:** design of mechanisms and plans for collecting, coordinating, and analyzing data and information which expand or go beyond the elements of the minimum manpower

data set and which are used as a part of the decisionmaking process.

- Needs Assessment and Projections:** activities to gather and analyze data and information in order to estimate the future numbers and types of mental health personnel, alternative patterns of distribution, training, and other recommended future activities, and their relationship to the provision of services.
- SHRD Plan Improvement:** activities to further identify and refine SHRD problems and issues and to improve the comprehensive SHRD plan, including specified SHRD goals and objectives that enhance the incorporation of the SHRD component into the State's Comprehensive Mental Health Services Plan (Pub. L. 99-660).

- **Workforce Management:** workforce management includes the process of efficiently and effectively acquiring, using, training, and retraining mental health human resources in the State mental health service system. All of the human resource development components in this area are interrelated elements of managing the workforce. For example, the ability to recruit human resources to certain specialty areas, to geographically underserved areas, or to specific positions in the State system will be affected by how the workforce is subsequently used. Similarly, the ability to deploy human resources to alternative settings will be affected by the presence of career systems and the effectiveness of mechanisms designed to retain human resources.

Examples of the areas and related activities for which workforce management developmental support can be requested include but are not limited to:

- Recruitment:** activities designed to encourage people to enter certain professional or technical careers and which focus on specific types of professionals and/or personnel to provide services to target populations.
- Distribution:** activities designed to achieve the allocation of mental health human resources in all geographic and specialty areas to meet the needs of underserved areas and special population groups.
- Utilization:** activities designed to use efficiently and effectively the knowledge, skills, and abilities of mental health human resources to provide mental health services, including competency requirements of staff, nature of staff activities, the organization of staff and working conditions, working relationships



among various types of human resources, and the use of mental health workers (paraprofessionals), allied health and mental health professionals, consumers/ex-patients, and family members.

—*Career Systems*: activities designed to develop a series of steps whereby both mental health workers (paraprofessionals) and professionals can move upwardly and/or laterally to achieve a continuous course of professional development and achievement.

—*Retention*: activities designed to enable and encourage persons to remain in particular mental health careers, in the service delivery system, in positions within the public mental health service system, or in certain geographic and specialty areas.

—*Women and Minorities*: activities to enable and encourage women and persons of racial or ethnic minority backgrounds to choose mental health careers and to select specific positions in the public mental health services delivery system.

—*Deployment and Alternative Employment*: activities designed to facilitate the transition of professional, paraprofessional, and support staff from current roles in existing mental health settings to new or modified roles in different mental health settings, i.e., community-based service.

#### B. Multi-State Resource Projects

Grants are available to States and public or private non-profit organizations supported by groups of three or more States to (1) develop and disseminate knowledge and technology on human resource development problems and priorities that transcend those in a single State or region; and (2) promote collaborative efforts by bringing together those States that wish to work together on mutual problems and share in the goal of enhancing human resource development. Support for these activities is based on recognition that human resource development problems and issues logically extend beyond geopolitical boundaries of individual States and might best be resolved by regional or other multi-State project efforts and leadership. While Multi-State Resource Grants provide the vehicle for regional and other multi-State activities, basic human resource development responsibility for workforce planning, policy development, and systems development must reside in individual States. Pilot demonstrations, exploratory studies, conferences, workshops, etc.,

focused on critical workforce issues, may be particularly effective and efficient when conducted on a multi-State basis.

Priority funding consideration will be given to approved applications that address one of the following priority areas. These priority areas can be addressed as part of a broader set of focused HRD activities or be a single focus of a multi-State approach.

#### 1. Training Mental Health Administrators

Because of the high turnover of mental health administrators and the increasing complexity of State and community mental health administration, the multi-State training of mental health administrators, clinical program managers and leaders at all levels within the States (Commissioners/Directors, regional, district, city, and county) will be a high priority in fiscal year 1990. Support will be available to assess and evaluate the training needs of mental health administrators for the purpose of improving their knowledge and skills as administrators/managers. Analysis of existing and available mechanisms, such as continuing education, inservice training, etc., should be undertaken to identify gaps in the existing system, and design, implementation, and evaluation of appropriate activities to fill the gaps.

#### 2. HRD Issues for Rural Areas

It is well known that many persons residing in rural areas may have limited access to mental health services. Since this situation is faced by many States, it is appropriate that multi-State approach be taken. Support will be available to assess and evaluate the extent that human resources issues are responsible for the lack of services and to develop strategies and alternatives that might be used to rectify the situation.

#### Public/Academic Liaison

The Public/Academic Liaison focus is to improve the joint planning and collaboration among academic institutions, State departments of mental health, and community based mental health services in order to improve community-based mental health services to populations described earlier in this document. This joint collaboration and improved coordination should be developed in such a manner that reciprocal benefits such as improved preservice curriculum offerings, better recruitment/retention, and inservice training of professional mental health personnel currently in short supply in community-based systems of mental health care might be achieved.

Emphasis should be placed not only on the development of mechanisms to facilitate collaboration and planning that can lead to improved attraction and retention of the mental health core disciplines in community-based settings, but also on the development of mechanisms for joint collaboration and planning to determine the types, levels, numbers, and skill/competency requirements for staffing a community-based service system.

It is anticipated that the State, academic institutions, and community-based mental health service programs will benefit equally from this program, and that NIMH support will play an important catalytic role which, in combination with other sources of support, will focus on areas in need of development and will be explicitly designed to lead to models of collaboration that can be used by other States.

#### Application Procedures

All applicants should use application form number PHS 5161-1 (revised 11/88) to request support for Human Resources Development activities described in this RFA. The title of this RFA "State Human Resource Development Program" should be typed in item 9 on the face page of form 5161-1. Applications must be complete and contain all information needed for the Initial Review Group (IRG) and Advisory Council review. No addenda will be accepted after submission unless specifically requested by the Executive Secretary of the IRG. The narrative section of the application, items 3 through 8 below, should not exceed 20 single-spaced pages; appendices, including letters of agreement or support, should not be used inappropriately to expand the narrative beyond this limitation. Extensive appendices are discouraged. Applications exceeding this limit will be returned.

#### Application Requirements

(1) *Table of Contents*: A clear delineation of the major areas of the narrative section of the application and subsections of major areas and appendices.

(2) *Abstract*: abstract (not to exceed 1½ pages as the program narrative containing, at least, a description of need, overall purpose of project activities, proposed approach and evaluation, highlights of probable outcomes/accomplishments, and a summary description of the State's commitment.

(3) *Organizational Background*: a brief description of the philosophy and



system of mental health service delivery in the State, including numbers and locations of facilities, personnel, etc.; and a listing or priority service goals and objectives as reflected in the State Comprehensive Mental Health Service Plan, the SHRD Plan, legislative mandates, judicial orders, etc. (see item 11)

(4) *HRD Background*: a listing of the system's overall workforce problems as perceived by the services system and/or identified through management information systems, surveys, or manpower data system of the State; a description of the State's mental health agency relationships in regard to capacity for systematic human resource development; if relevant, a summary of previous funding history for human resource development activities; a description of the accomplishments in terms of capacity development, SHRD policy formulation, and project results.

(5) *Need Statement*: a specific listing of the SHRD workforce problems to be addressed by the proposed project and a description of how and why these problems were chosen over other SHRD problems described in SHRD Background section above; a concise statement of the conditions that exist as a rationale for the activities proposed to resolve the problems; and a conceptual framework that justifies the workforce problems as SHRD issues. (Efforts must be workforce oriented. Efforts that are primarily services oriented are not eligible for support.)

(6) *Goals and Objectives*: specification of quantifiable/measurable short- and long-range goals and specific objectives or proposed project, including a discussion of the potential impact that the project would have on the mental health system if the goals and objectives are achieved.

(7) *Workplan*: a detailed description of the first-year work to be performed, including the approach and tasks to meet objectives, responsible personnel, a detailed timeline chart for task accomplishment; and a listing of proposed products, papers, monographs, curriculum, etc., to be developed (Workplans for subsequent years should be described in as much detail as possible. Also, plans for disseminating project results should be provided.)

(8) *Evaluation*: A detailed evaluation plan for assessing, both quantitatively and qualitatively, the degree to which the goals and objectives were met.

(9) *Budget*: A detailed narrative description and justification of proposed budget (The narrative should describe and justify all budget requirements by category and by priority. It should also provide information on that portion of support for SHRD activities that is to be provided by the applicant and/or other sources concurrent with grant funds and should include the percentage or time and salary of State personnel involved in the grant but not directly supported by grant funds.)

(10) *Job Descriptions*: Job descriptions of relevant State and project SHRD positions as supplemental documentation should be provided (Since much of the grant support program is intended to enhance the capacity of the applicant agency to perform certain tasks, the job descriptions of the personnel performing SHRD functions are critical to the evaluation of the application and the project. A current Table of Organization should also be included—see item 11.)

(11) *Supportive Documentation*: A Table of Organization of the mental health agency and other relevant components within the State with particular attention to existing human resource development and to proposed capacity building; evidence (including letters of support as an appendix to the application) that the climate and environment are favorable to the success of the proposed effort; and written evidence that the State or multi-State consortium has, or has the potential to secure, leadership and other resources essential to the success of the project.

States having NIMH-funded Community Support Program grants and/or Child and Adolescent Service System Program or other related grant-supported programs, such as programs for the homeless, State Comprehensive Mental Health Services Plan, etc., should clearly describe the collaborative activities between the SHRD program and these projects. Such collaboration should address the issues considered most relevant to the State's immediate and long-range needs, including the assessment of short- and long-term

human resource development and training needs affecting personnel for planning, program implementation, and evaluation.

#### Review of Applications<sup>1</sup>

A dual review system is used to insure a knowledgeable and objective review of the quality of applications. The first step, peer review for technical merit, is primarily by non-Federal experts comprising the IRC. The final review is by the National Advisory Mental Health Council. Only applications recommended for approval by the Council may be considered for funding. No site visits will be made.

Each grant application is evaluated on its own merit. The following criteria are used in the initial review:

- Clarity of the needs being addressed and the goals and objectives of the project.
- Appropriateness and feasibility of the content, method, and organization of the project to the specified goals and objectives.
- Background and competence of the project staff in the proposed areas of work.
- Suitability of the facilities and environment for carrying out the proposed activities.
- Potential for significant progress in first year of support.
- Appropriateness of the proposed budget.
- Appropriateness and thoroughness of plans for evaluating success in achieving the goals and objectives.
- The national importance or significance of the proposed multi-State project.
- For multi-State projects, evidence of strong support and resource commitment from the State mental health authorities of all collaborating States.
- For previously funded projects, the degree to which the present proposal builds on significant achievements of previous years.

<sup>1</sup> Applications submitted in response to this announcement are not subject to the intergovernmental review requirements of Executive Order 12372 as implemented through DHHS regulations at 45 CFR part 100 and are not subject to Health Systems Agency review.

#### Receipt and Review Schedule

Last date for receipt of application	Initial review	National Advisory Mental Health Council	Earliest award date
April 23, 1990 .....	June/July 1990 .....	September 1990 .....	September 1990.



Applications received after the above receipt date will not be reviewed and will be returned to the applicant. The original and two (2) copies of the application should be submitted to: Division of Research Grants, NIH, Westwood Building, Room 240, 5333 Westbard Avenue, Bethesda, Maryland 20892.

Because of the short time available for initial and Council review, it is requested that an additional copy be sent directly to: Division of Extramural Activities, National Institute of Mental Health, 5600 Fishers Lane, Room 9C-15, Rockville, Maryland 20857, Attention: Edna M. Hardy-Hill.

#### Terms and Conditions of Support

Grants are awarded directly to eligible applicants. Funds may be used only for those expenses that are directly related and necessary to carry out the project, including both direct and allowable indirect costs. Funds must be expended in conformance with the Department of Health and Human Services cost principles, the Public Health Service Grants Policy Statement,<sup>2</sup> and conditions set forth in this document and on the Notice of Award.

Title 45 CFR parts 74 and 92, general requirements concerning administration of grants, are applicable to these awards.

#### Period of Support

Support may be requested for up to 3 years. However, since this program is proposed for phase down over 3 years, no commitment can be made for support beyond the first year. The objectives and activities of the first year should, in themselves, be designed to achieve significant steps in human resource development.

*Stipends are not available under this Program.*

#### Award Criteria

- Quality of the proposed project as determined during the review process.
- Strong evidence of public/academic liaison activities.
- Geographic distribution
- Availability of funds.
- Quality of evaluation plan.
- The degree to which priority populations and rural issues are addressed.
- The degree to which multi-State projects address one of the designated priority areas.

<sup>2</sup> Public Health Service Grants Policy Statement, DHHS Publication (Rev. January 1, 1987) GPO stock number GPO-017-020-00092-7, available for \$4.50 from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

#### Staff Consultation

Staff of the State Planning and Human Resources Development Branch, NIMH, are available for consultation concerning the application and program development to applicants in advance of or during the process of preparing an application. Potential applicants should contact the Branch as early as possible for information and guidance in initiating the application process. Inquiries should be directed to: Brian W. Flynn, Ed. D., Acting Chief, or Donald L. Fisher, Director, Human Resource Development Program, State Planning and Human Resource Development Branch, Division of Education and Service Systems Liason, 5600 Fishers Lane, Room 7-103, Parklawn Building, Rockville, Maryland 20857, Telephone: (301) 443-4257.

Application Kits containing instructions for completing the PHS-5161-1 may be obtained from the State Planning and Human Resource Development Branch at the address listed above.

The Catalog of Federal Domestic Assistance number for this program is 13.244. These grants will be made under the authority of section 303, Public Health Service Act, 42 USC 242a; 42 CFR part 64a.

Joseph R. Leons,  
Executive Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 90-1581 Filed 1-23-90; 8:45 am]

BILLING CODE 4160-20-M

#### Health Resources and Services Administration

##### National Advisory Council on the National Health Service Corps Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of February 1990.

*Name:* National Advisory Council on the National Health Service Corps.

*Date and Time:* February 25-27, 1990, 8:30 a.m.

*Place:* Hollywood Beach Hilton Hotel, Hollywood, Florida 33019.

The meeting is open to the public.

*Purpose:* The Council will advise and make appropriate recommendations on the National Health Service Corps (NHSC) program as mandated by legislation. It will also review and comment on proposed regulations promulgated by the Secretary under provision of the legislation.

*Agenda:* Discussions will include: Cooperation and Linkages between

Medical Schools, Community Health Centers, and the NHSC; Student-Resident's Reaction to the NHSC; Southeastern College of Osteopathic Medicine's Approach to Primary Care; Perinatal Planning and the Role of NHSC; Medical Manpower Shortage in Florida; and Update on the NHSC (central and regional). On Monday, February 26, the Council will depart from the hotel at 8:00 a.m. to conduct site visits to the Economic Opportunity Clinic in Miami; the Belle Glade, Okeechobee, and Indiantown Clinics. Transportation will not be provided for visitors and observers. The Tuesday meeting will begin at 8:30 a.m. and adjourn at 2:00 p.m.

Anyone requiring information regarding the subject Council should contact Anna Mae Voigt, National Advisory Council on the National Health Service Corps, Room 7A-39, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-1470.

Agenda Items are subject to change as priorities dictate.

Dated: January 18, 1990.

Jackie E. Baum,  
Advisory Committee Management Officer,  
HRSA.

[FR Doc. 90-1521 Filed 1-23-90; 8:45 am]

BILLING CODE 4160-15-M

#### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

[Docket No. N-90-3002; FR-2460-N-01]

##### Supplement to the Notice to Home Loan Creditors of Responsibilities Under Federal Law

**AGENCY:** Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

**ACTION:** Supplement to the notice to home loan creditors of responsibilities under Federal law.

**SUMMARY:** HUD published a Notice on May 15, 1989 in the Federal Register (54 FR 20964) (Notice) which discussed creditors' responsibilities under section 169 of the Housing and Community Development Act of 1987, Public Law 100-242, approved February 5, 1988 (section 169). This office has received many inquiries from creditors regarding various aspects of the Law, and to resolve these questions we are publishing this supplement so that it will



be available to all creditors. (Section 169 expired on September 30, 1989, but it has now been extended through September 30, 1990 by Public Law 101-137, approved November 3, 1989.)

There are two changes to the information contained in the previous Notice published in the Federal Register. One change involves the definition of a "one-family dwelling", which the Notice defined to include "a dwelling that may be divided into a maximum of four [4] dwelling units." After reviewing section 169 and its legislative history, it is HUD's view that a one-family dwelling does not include houses with more than one dwelling unit. This is reflected in the answer to Question 8.

The second change involves the information which the creditor must send the homeowner in the notice of counseling availability. The Notice implied that specific information on counseling agencies must be included in the Notice sent to the homeowner. It has now been decided that the creditor may, instead, include in the written Notice of Default a toll-free number which the homeowner may call for specific information. The creditor must ensure that the telephone line is adequately staffed. This revised information is contained in Question 4.

**FOR FURTHER INFORMATION CONTACT:** Robert E. Falkenstein, Jr., Office of Insured Single Family Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20140; telephone (202) 755-6672. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** In order to respond to creditor inquiries and to clarify creditor responsibilities under section 169, the Office of Housing has prepared the following questions and answers as a supplement to the Notice previously published. HUD has no explicit statutory role as interpreter of the scope of section 169, and is publishing this document as general guidance only. We note that if a creditor's compliance with section 169 is challenged in court, the ultimate determination of the adequacy of the creditor's notification and the legal consequences of any noncompliance will be made by the Court. We also note that nothing in this information or in section 169 is intended to preclude a creditor from providing any additional assistance to defaulting homeowners that the creditor regards as appropriate.

1. Does the section 169 requirement that creditors notify delinquent homeowners of available counseling apply only if the property secures a

mortgage that is federally insured or guaranteed?

No. The section 169 notification requirement applies to all home loans except those assisted by the Farmers Home Administration under title V of the Housing Act of 1949. Thus, both conventional mortgages and loans, and those insured by HUD or guaranteed by the Department of Veterans Affairs, are subject to section 169.

2. How soon do notices have to go out after a homeowner becomes delinquent?

The statute does not prescribe a time at which the notice must be sent to the homeowner. However, since the purpose of the notice is to help the homeowner avert foreclosure, it should be sent soon enough to enable the homeowner to benefit from the counseling. HUD recommends that the notice be included in the creditor's first communication with the homeowner regarding the delinquency.

3. What is the creditor's obligation with respect to a future delinquency?

A notice must be sent to every homeowner every time the homeowner becomes delinquent. If the homeowner brings the loan current and becomes delinquent again, another notice must be sent.

4. What should be in the notice?

The notice must contain information on any counseling provided by the creditor and either the name, address and telephone number of the HUD-approved counseling agencies near the homeowner or a cost-free telephone number at the creditor's office where the homeowner can obtain this information. If the security instrument is insured or guaranteed by the Department of Veterans Affairs, the homeowner may be provided with the address and telephone number of the Department of Veterans Affairs Regional Office in the state in which the homeowner resides instead of information on the HUD-approved counseling agencies.

It is not necessary that information on a specific counseling agency be included in the notice. It is sufficient to advise the homeowner that counseling assistance is available and that the homeowner should contact the creditor for further information as long as the creditor provides the homeowner with a toll free number and the creditor ensures that the telephone is adequately staffed.

5. Will HUD be issuing a form for the notice?

No, HUD will not be issuing a form for the notice. It is HUD's view that sufficient information has been provided on the Section 169 notice requirement to enable creditors to prepare the notice.

6. Who should receive the notice?

A homeowner occupying a property covered by a delinquent loan who has suffered an involuntary reduction in his or her income or in the income of someone who contributes to the homeowner's income. However, creditors may prefer to send the notice to all delinquent homeowners, rather than attempt to determine the cause of each delinquency.

7. Are notices required for delinquent home equity loans?

Yes. Also for delinquent mortgages, deeds of trust, second liens, and any other loan secured by the mortgagor's principal residence.

However, the notice is not required property sold under a land sales contract, since title remains in the seller until the contract is completed. The purchaser is not a homeowner until the completion of the contract.

8. Is the notice required only for a homeowner of a one-family house?

In addition to a one-family house, section 169 covers a one-family unit in a condominium, a membership interest and occupancy agreement in a cooperative housing project, and a manufactured home and the lot on which the home is situated. The homeowner must occupy the property as his or her principal residence.

A loan which is secured by only a manufactured home (mobile home) unit, exclusive of a lot, is not covered by the statute. However, a loan secured by both the manufactured home and the site is within the definition of residential property as set out in section 169. Accordingly, the owner of a manufactured home financed by a loan secured by both the home and lot is entitled to a section 169 notice.

9. If the notice is sent and the closest agency is a significant distance from the homeowner's residence, is the creditor required to provide counseling?

The statute does not require any creditor to provide counseling.

10. If a creditor does provide homeownership counseling, should the creditor also notify the delinquent homeowner of the availability of homeownership counseling by HUD-approved counselors or by the Department of Veterans Affairs?

Yes.

11. Do creditors have to be HUD-approved to offer homeownership counseling?

No.



12. Must creditors indicate in the notice if they do not provide homeownership counseling?

No.

13. Who is responsible for sending the section 169 notice—the owner of the security instrument or the servicer?

Section 169 defines the term "creditor" as a person that is servicing a home loan on behalf of itself or another person or entity. Therefore the servicer of a loan, not the owner, is required to provide the notice required by Section 169.

14. Is a bank a creditor under section 169 if it performs specific collection services for a mortgagee, i.e., receiving the monthly mortgage payments, and issuing a monthly or quarterly statement to the mortgagee?

If the bank merely receives the mortgage payments for another entity and does not contact homeowners to discuss delinquent account, the bank would not be considered a "servicer" and would not be required to send the Section 169 notice.

15. Should the notice be delivered by certified mail?

Section 169 does not require delivery by certified mail. However, the creditor should be in a position to prove the notification if the homeowner alleges noncompliance with section 169.

16. Should the notice list counseling agencies which are located near the secured property or near the homeowner if the creditor's records indicate that these are different locations?

Since the homeowner must occupy the property as his principal residence before it is required that this notice be sent, the notice should list counseling agencies that are located in the vicinity of the secured property.

17. May counseling agencies charge for their services?

Counseling agencies may charge for that portion of the fee which is not covered by grants and other subsidies received by the counseling agency. However, HUD may limit such charges and place other restrictions on counseling agencies wishing to remain HUD-approved. Section 169 does not require the creditor to assume the cost of this counseling.

18. What is homeownership counseling?

Homeownership counseling includes providing information, advice, and assistance to enable delinquent homeowners to become current in their mortgage payments. The counseling is also designated as housing counseling or default counseling, and includes every

service and assistance that will help the homeowner to become current.

Budgeting, money management, arranging a forbearance agreement or plan with the bank, lender or servicer, arranging repayment plans for the payment of other debts, financial aid from local government entities, food and clothing from non-profit organizations, marital and family guidance, all are included in the homeownership counseling package delivered by HUD-approved housing counseling agencies. The intent is to increase the income of the homeowner, reduce expenses and payments on installment debts, and thereby free-up monies for the monthly mortgage payments.

19. When recommending HUD-approved housing counseling agencies to the homeowner, should creditors send the entire state list of HUD-approved housing counseling agencies, or can creditors select one or two agencies on the list near the homeowner?

Creditors should provide the homeowner with a reasonable number of choices. The homeowner needs more than one or two counseling agencies to choose from. However, the creditor does not need to provide a statewide listing if the state is very large and the listing is lengthy. If there are no HUD-approved housing counseling agencies near the delinquent homeowner, the creditor should provide a list of a reasonable number of agencies which are nearest to the homeowner. The delinquent homeowner may wish to visit those agencies even though they are some distances away or may wish, instead, to discuss the problems over the telephone.

20. Did this Law expire September 30, 1989?

Yes. However, section 169 was extended through September 30, 1990 by an Act to extend the expiration date of the Defense Production Act of 1950, Public Law 101-137, which was signed by the President on November 3, 1989.

21. Who can creditors contact at HUD for more detailed homeownership counseling information?

Secretary-Heid & Counseling Services Branch, Department of Housing and Urban Development, 451 Seventh Street SW.—Room 9184, Washington, DC 20410. The telephone is (202) 755-6664. (This is not a toll-free number.)

Dated: January 8, 1990.

Peter Monroe,

Acting General Deputy Assistant Secretary for Housing—Federal Housing Commissioner.  
[FR Doc. 90-1547 Filed 1-23-90; 8:45 am]

BILLING CODE 4210-27-M

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[NV-030-00-5320-10; Closure Notice NV-030-90-04]

### Closure of Federal Lands; Nevada

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Closure of Federal Lands; Notice.

**SUMMARY:** Notice is hereby given that certain public lands in the vicinity of Jumbo Grade, just east of Washoe Valley, Nevada, are closed to all vehicles. This closure is necessary to ensure that rehabilitation of a former materials pit just south of Jumbo Grade may proceed without additional damage occurring as a result of off-road vehicle use.

**DATE:** This closure goes into effect on February 20, 1990, and will remain in effect until the Carson City District Manager determines it is no longer needed.

**FOR FURTHER INFORMATION CONTACT:** James M. Phillips, Lahontan Resource Area Manager, Carson City District Office, 1535 Hot Springs Road, Suite 300, Carson City, Nevada 89706. Telephone (702) 882-1631.

**SUPPLEMENTARY INFORMATION:** The authority for this closure is 43 CFR 8341.2 and 43 CFR 8364.1. Any person who fails to comply with a closure order is subject to arrest and fines of up to \$1000 and/or imprisonment not to exceed 12 months.

This closure applies to all motorized vehicles and non-motorized vehicles, such as mountain bikes, excluding (1) any emergency or law enforcement vehicle while being used for emergency purposes, (2) any vehicle operated by Washoe County and being used for purposes associated with rehabilitation of the area, and (3) any vehicle whose use is expressly authorized in writing by the Lahontan Resource Area Manager.

The public lands affected by this closure are those lands near the old Jumbo Pit within:

Mt. Diablo Meridian

T. 16 N., R. 20 E.

Sec. 4; S½SW¼NE¼, N½NW¼SE¼

A map of the closed area is posted in the Carson City District Office.

Dated: January 18, 1990.

James W. Elliott,  
Carson City District Manager.

[FR Doc. 90-1609 Filed 1-23-90; 8:45 am]

BILLING CODE 4310-NC-M



[UT-050-00-4410-08]

**Advisory Council Meeting, Richfield District****AGENCY:** Bureau of Land Management, Interior.**ACTION:** District Advisory Council Meeting.**SUMMARY:** The Richfield District Advisory Council will hold a meeting on February 21, 1990. The meeting will start at 10:00 a.m. in the District Office, 150 East 900 North, Richfield, Utah.

The agenda will be:

1. Electronic Combat Test Capability
2. Predator Control
3. Update on the Districts planning
4. District drought update
5. Update on Wildlife and Recreation 2000 programs
6. Status of the Fremont River Project

Interested persons may make oral statements to the Council between 1:15 p.m. and 2:15 p.m. or file written comments for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 150 East 900 North, Richfield, Utah 84701 (801-896-8221). For further information contact: Bert Hart, District Public Affairs Specialist at the above address.

Dated: January 9, 1990.

Jerry Goodman,

District Manager.

[FR Doc. 90-1564 Filed 1-23-90; 8:45 am]

BILLING CODE 4310-DQ-M

**Intent To Prepare an Amendment to the Hollister Resource Management Plan and an Environmental Impact Statement (EIS) to address Oil & Gas Leasing in the Hollister Resource Area****AGENCY:** Bureau of Land Management, Interior.**ACTION:** Notice of Intent to Prepare an Amendment to the Hollister Resource Management Plan and an Environmental Impact Statement (EIS) to address Oil & Gas Leasing in the Hollister Resource Area.**SUMMARY:** The Hollister Resource Area, Bureau of Land Management, U.S. Department of Interior will be amending the current land use plan (Hollister Resource Management Plan) and preparing an Environmental Impact Statement to address oil & gas leasing within the resource area. Decisions will be made regarding what areas should be available for oil & gas leasing, and what special stipulations, if any, should apply

for each area. The Hollister Resource Area includes approximately 310,000 acres of public lands and 385,000 acres of private land with federal ownership of subsurface minerals. These lands are located in the central California counties of Monterey, San Benito, Fresno, Madera, and Merced.

**DATES:** Written comments on the planning issues will be accepted until March 30, 1990. Additional comments on the draft plan amendment and EIS will be solicited at a later date. Staff will be available to discuss the project during informal public workshops scheduled for the following times and locations:

BLM/SCS Building, U.S. Forest Service Compound, 426 S. Mildred, King City, CA, 5 to 8 p.m., March 12, 1990;  
Coalinga Public Library, 305 N. 4th Street, Coalinga, CA, 5 to 8 p.m., March 13, 1990;

Bureau of Land Management Hollister Resource Area, 20 Hamilton Court, Hollister, CA, 1 to 9 p.m., March 14, 1990.

**ADDRESS:** Comments should be sent to the Area Manager, Hollister Resource Area, Bureau of Land Management, P.O. Box 365, Hollister, CA 95024.**FOR FURTHER INFORMATION CONTACT:** Steve Addington, (408) 637-6163.**SUPPLEMENTARY INFORMATION:** BLM geologists are currently developing "reasonably foreseeable development" scenarios which will project the level of oil & gas exploration and development that is anticipated during the next 15 years. They are also preparing maps delineating areas of low, moderate, or high oil & gas potential. These projections will form the basis for the identification of issues and evaluation of environmental impacts.

Four tentative issues have been identified for public review. Potential issues include, but may not be limited to: air quality; rare, threatened or endangered plants; rare, threatened or endangered animals; and scenic values. Existing procedures and regulations are expected to preclude significant impacts to soil stability/erosion, cultural resource values, public health (asbestos exposure), water quality, and the California Coastal Zone. Associated with each issue are planning criteria which provide the regulatory framework and sideboards that will guide consideration of the issue. Tentative planning criteria for these issues are available for review at the BLM Hollister Resource Area.

The Environmental Impact Statement will be prepared by an interdisciplinary team including specialists in petroleum geology, botany, wildlife, recreation,

visual resource management, and air quality.

Alternatives currently being considered for evaluation in the plan amendment and EIS include no action, no oil & gas leasing, leasing with standard stipulations only, leasing with special stipulations to avoid significant adverse impacts, and leasing with special stipulations to avoid all adverse impacts.

The Bureau of Land Management's scoping process to identify issues, planning criteria, and alternatives for the plan amendment and EIS will include: (1) A news release announcing start of the amendment and EIS process; (2) distribution of this notice to interested groups, individuals, and agencies; (3) meetings with affected agency and interest group representatives; (4) the public workshops described above; and (5) publication of Notice of Availability of planning criteria in the Federal Register.

Dated: January 9, 1990.

Robert E. Beahler,

Area Manager.

[FR Doc. 90-1563 Filed 1-23-90; 8:45 am]

BILLING CODE 4111-02-M

**Bureau of Reclamation****Central Valley Project, CA****AGENCY:** Bureau of Reclamation, Interior.**ACTION:** Notice of proposed decision.**SUMMARY:** Notice is hereby given of a proposed decision to implement a new cost allocation study for the Central Valley Project (CVP). The "Report on Cost Allocation Study, Central Valley Project, California", dated December 1983, is available for public review. The public review period will end on March 30, 1990. Public workshops will be held during the public review period to explain and discuss the new cost allocation.

Written comments on the new CVP cost allocation must be received on or before March 30, 1990. A "Public Review Comment and Response Summary" will then be prepared before the cost allocation study is forwarded to the Commissioner of Reclamation for final approval. The effective date for the implementation of the approved study will be 30 calendar days after the Notice of Final Decision is published in the Federal Register.

**DATES:** Public review of the new CVP cost allocation study will begin on January 24, 1990. The public review period will end on March 30, 1990.



Written comments must be received on or before March 30, 1990.

Public information workshops will be conducted to explain the methods, assumptions, and data used in the new cost allocation. The information workshops are scheduled as follows:

1. February 14, 1990, 1:00 p.m. to 3:00 p.m., Willows, California.
2. February 15, 1990, 1:00 p.m. to 3:00 p.m., Sacramento, California.
3. February 21, 1990, 1:00 p.m. to 3:00 p.m., Fresno, California.

**ADDRESSES:** Copies of the "Report on Cost Allocation Study, Central Valley Project, California", dated December 1988, are available from the: Regional Director, Bureau of Reclamation, Mid-Pacific Region, CVP Cost Allocation (MP-350), 2800 Cottage Way, Sacramento, CA 95825-1898.

Written comments on the new CVP cost allocation may be mailed to the: Regional Director, Bureau of Reclamation, Mid-Pacific Region, CVP Cost Allocation (MP-350), 2800 Cottage Way, Sacramento, CA 95825-1898.

The public information workshops will be held at the following locations:

1. Willows—Blue Gum Restaurant, Highway 99, Willows, California.
2. Sacramento—Hamilton Room, Clarion Hotel, 700 16th Street, Sacramento California.
3. Fresno—Kings Canyon Sequoia Room, Holiday Inn—Fresno Airport, 5090 East Clinton, Fresno, California.

The facilities and rooms where the meetings will be held are accessible to the handicapped. Hearing impaired, visually impaired, or mobility impaired persons planning to attend any of the meetings may arrange for special assistance by calling Curtis Smith at 916-978-4911 or FTS-460-4911.

**FOR FURTHER INFORMATION CONTACT:** All written requests or comments should be sent to the: Regional Director, Bureau of Reclamation, Mid-Pacific Region, CVP Cost Allocation (MP-350), 2800 Cottage Way, Sacramento, CA 95825-1898.

Telephone inquiries may be made to Michael Levering or Howard Hirahara at 916-978-5255 or FTS-460-5255 in Sacramento, California; Sam Kennedy at 303-236-8388 or FTS-776-8388 in Denver, Colorado; or Donald Walker at 202-343-5671 or FTS-343-5671 in Washington, DC.

#### **SUPPLEMENTARY INFORMATION:**

Authority: Section 9, Reclamation Project Act of 1939, 53 Stat. 1193 (43 U.S.C. 485h(a)); sec. 102, Pub. L. 99-546, 100 Stat. 3050.

#### **Effects of Decision to Implement**

Approval of the new cost allocation study will (1) increase the share of the costs which are to be repaid by the

water users, and (2) reduce the share of the costs distributed to nonreimbursable purposes. There will be an increase in the cost of water supplied by the project.

#### **Water and Power Supplies**

CVP water is delivered under terms of long-term water service contracts. Project water is supplied for irrigation; domestic, municipal, and industrial uses; waterfowl conservation; and wildlife refuges. Hydroelectric power is generated by the project to meet project pumping requirements. Any surplus power is sold to the preference power customers to aid in the recovery of costs of the project.

#### **Service Area**

The authorized service area includes portions of the Central Valley Basin and part of the Central Coastal Area of California.

Dated: January 17, 1990.

James C. Wiley,  
Acting Assistant Commissioner—Resources Management.

[FR Doc. 90-1608 Filed 1-23-90; 8:45 am]

BILLING CODE 4310-09-M

#### **Minerals Management Service**

##### **Information Collection Submitted for Review**

The collection of information listed below has been submitted to the Office of Management and Budget for reapproval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed information collection requirement and related explanatory material may be obtained by contacting Jeane Kalas at 303-231-3046. Comments and suggestions on the requirement should be made directly to the Bureau Clearance Officer at the telephone number listed below and to the Office of Management and Budget, Paperwork Reduction Project (1010-0075), Washington, DC 20503, telephone 202-395-7340.

Title: Gas Transportation and Processing Allowances

##### **Abstract**

When a company enters into a contract to develop, produce and dispose of gas and associated products from Federal or Indian lands, that company agrees to pay the United States or Indian Tribe or allottee a share (royalty) of the full value of production from the leased lands. In order to determine whether the amount of royalty tendered represents the proper royalty due, it is necessary to establish

the value of allowances being deducted from royalty payments. Allowances are taken for the cost of processing the gas stream to extract associated products, and for the cost of transporting the gas to the processing plant and to the point of first sale. The information collected is necessary to evaluate the reasonableness of allowances taken, and ensure that proper royalty payments are made.

Bureau Form Numbers: MMS-4109, MMS-4295

Frequency: Annually, or when contracts are changed or terminated

Description of Respondents: Gas product companies

Estimated Completion Time: Average, 3 hours

Annual Responses: 4,906

Annual Burden Hours: 14,145

Bureau Clearance Officer: Dorothy Christopher, 703-787-1239

Dated: December 28, 1989.

Donald T. Sant,  
Acting Associate Director for Royalty Management.

[FR Doc. 90-1532 Filed 1-23-90; 8:45 am]

BILLING CODE 4310-MR-M

#### **Freedom of Information Act Requests; Royalty Management**

**AGENCY:** Minerals Management Service (MMS), Interior.

**ACTION:** Notice of official address.

**SUMMARY:** The Royalty Management Program (RMP) announces the official address for all Freedom of Information Act (FOIA) requests. This Notice provides the RMP address for written FOIA requests and the telephone number for inquiries pursuant to FOIA matters.

**EFFECTIVE DATE:** February 1, 1990.

**ADDRESS:** All FOIA requests directed to RMP should be mailed to the FOIA Coordinator, Attention: Mark White, Royalty Management Program, U.S. Department of the Interior, Minerals Management Service, P.O. Box 25165, Mail Stop 660, Denver, Colorado 80225.

**FOR FURTHER INFORMATION CONTACT:** FOIA Coordinator, Mark White, (303) 231-3013.

**SUPPLEMENTARY INFORMATION:** The Freedom of Information Act (5 U.S.C. 552) became law on September 8, 1966. It requires each agency to provide information that is subject to an FOIA request on a timely basis.

Recently, the FOIA function for RMP was transferred from the Royalty Liaison Office, Washington, DC, to the Associate Director's Office, Denver,



Colorado. As a result, all FOIA requests for RMP information will now be processed at the new location for control of the function.

Dated: January 18, 1990.

Donald T. Sant,

Acting Associate Director for Royalty Management.

[FR Doc. 90-1610 Filed 1-23-90; 8:45 am]

BILLING CODE 4310-MR-M

## National Park Service

### National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before January 13, 1990. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013-7127. Written comments should be submitted by February 8, 1990.

Carol D. Shull,

Chief of Registration, National Register.

## ARKANSAS

### Pulaski County

Pruniski House, 345 Goshen Ave., North Little Rock, 90000116

## CALIFORNIA

### San Mateo County

Mills, Robert, Dairy Barn, Higgins Purissima Rd., Half Moon Bay vicinity, 90000120

### Santa Clara County

Fraternal Hall Building, 140 University Ave. and 514 High St., Palo Alto, 90000119

### Sierra County

Sierra County Sheriff's Gallows, Galloway Rd. and Courthouse Sq., Downieville, 90000118

### Sonoma County

Hotel Chauvet, 13756 Arnold Dr., Glenn Ellen, 90000117

## FLORIDA

### Volusia County

Thurman, Howard, House, 614 Whitehall St., Daytona Beach, 90000100

## GEORGIA

### Baker County

Pine Bloom Plantation, Tarva Rd./Co. Rt. 122, 0.75 mi. S of Baker/Dougherty county line, Newton vicinity, 90000105

## ILLINOIS

### Champaign County

Chi Psi Fraternity House (Fraternity and Sorority Houses at the Urbana-Champaign

Campus of the University of Illinois MPS), 912 S. Second St., Champaign, 90000115

Delta Kappa Epsilon Fraternity House (Fraternity and Sorority Houses at the Urbana-Champaign Campus of the University of Illinois MPS), 313 E. John, Champaign, 90000114

Sigma Alpha Epsilon Fraternity House (Fraternity and Sorority Houses at the Urbana-Champaign Campus of the University of Illinois MPS), 211 E. Daniel St., Champaign, 90000113

### Will County

Joliet, Louis, Hotel, 22 E. Clinton St., Joliet, 90000101

## INDIANA

### Shelby County

West Side Historic District, Roughly bounded by W. Pennsylvania, N. Harrison, N. and S. Thompson, W. Hendricks, Montgomery, and N. Conrey, Shelbyville, 90000099

## MASSACHUSETTS

### Middlesex County

Boston College Main Campus Historic District (Newton MRA), 140 Commonwealth Ave., Newton, 90000109  
Church, William L. House (Newton MRA), 145 Warren St., Newton, 90000112  
Farlow Hill Historic District (Newton MRA), Roughly bounded by Shornecliffe Rd., Franklin St., Chamberlain Rd., Huntington Rd., and Farlow Rd., Newton, 90000110  
Newton Cottage Hospital Historic District (Newton MRA), 2014 Washington St., Newton, 90000108  
Stewart, Frank H., House (Newton MRA), 41 Montvale Rd., Newton, 90000111

## MINNESOTA

### Hennepin County

Gluek, John G. and Minnie, House and Carriage House, 2447 Bryant Ave. S., Minneapolis, 90000103

## NEW MEXICO

### Luna County

Field, Seaman, House, 304 Silver Ave., Deming, 90000102

## RHODE ISLAND

### Providence County

Boyle Avenue Historic District, Doyle Ave. from N. Main St. to Hope St., Providence, 90000104

### Washington County

Great Salt Pond Archeological District (Indian Use of Block Island, 500 BC-AD 1676), Address Restricted, New Shoreham vicinity, 90000107

Perry-Carpenter Grist Mill, 364 Moonstone Beach Rd., South Kingstown, 90000106

[FR Doc. 90-1613 Filed 1-23-90; 8:45 am]

BILLING CODE 4310-70-M

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-309]

### Certain Athletic Shoes With Viewing Windows; Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on December 15, 1989, under section 337 of the Tariff Act of 1930, as amended, (19 U.S.C. 1337), on behalf of Autry Industries, Inc., 11420 Reeder Road, Dallas, Texas 75229.

The complaint alleges violations of subsection (a)(1)(B)(i) of section 337 in the importation into the United States, sale for importation, or sale within the United States after importation of athletic shoes with viewing windows covered by claims 1 through 9 of U.S. Letters Patent 4,845,863, and that an industry in the United States exists or is in the process of being established as required by subsections (a)(2) and (a)(3) of section 337.

The complainant requests that the Commission institute an investigation and, after a full investigation, issue a permanent exclusion order and permanent cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Room 112, Washington, DC 20436, telephone 202-252-1802. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810.

FOR FURTHER INFORMATION CONTACT: George C. Summerfield, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202-252-1582.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in § 210.12 of the Commission's Interim Rules of Practice and Procedure (19 CFR 210.12).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on January 16, 1990, Ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted



to determine whether there is a violation of subsection (a)(1)(B)(i) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain athletic shoes with viewing windows by reason of alleged direct or induced infringement of claims 1 through 9 of U.S. Letters Patent 4,845,863; and whether an industry in the United States exists or is in the process of being established as required by subsections (a)(2) and (a)(3) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Autry Industries, Inc., 11420 Reeder Road, Dallas, Texas 75229.

(b) The respondents are the following companies alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

H.S. Corporation, Kuk Je Building, 5F, 69, 6-Ga, Chunggang-dong, Chung-ku, Pusan, Korea;

Reebok International, Ltd., 100 Stoughton Technology Center, Stoughton, Massachusetts 02072.

(c) George C. Summerfield, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW., Room 401F, Washington, DC 20436, shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, Janet D. Saxon, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with § 210.21 of the Commission's Interim Rules of Practice and Procedure (19 CFR 210.21). Pursuant to §§ 201.16(d) and 210.21(a) of the Commission's Rules (19 CFR 201.16(d) and 210.21(a)) such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting responses to the complaint will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to

such respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against such respondent.

By order of the Commission.

Issued: January 17, 1990.

Kenneth R. Mason,  
Secretary.

[FR Doc. 90-1559 Filed 1-23-90; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-304]

**Certain Pressure Transmitters;  
Commission Determination To  
Designate Temporary Relief  
Proceedings More Complicated;  
Request for Written Submissions**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined to declare the temporary relief proceedings in the above-captioned investigation "more complicated," thereby extending the statutory deadline for determining whether to issue temporary relief by 60 days, i.e., until March 19, 1990. The Commission invites interested persons to submit filings on certain issues related to temporary relief under 19 U.S.C. 1337(e), as detailed below.

**ADDRESS:** Copies of the non-confidential version of the presiding administrative law judge's ID granting temporary relief and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202-252-1000.

**FOR FURTHER INFORMATION CONTACT:** Jean Jackson, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202-252-1104. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810.

**SUPPLEMENTARY INFORMATION:** On September 15, 1989, Rosemount Inc. (Rosemount) filed a complaint and a motion for temporary relief with the Commission alleging violations of

section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation and sale of certain pressure transmitters, devices used to measure flow rates in industrial processes. Rosemount alleged that SMAR Equipment of Sao Paulo, Brazil and SMAR International of Ronkonkoma, New York were engaged in the sales and importation of pressure transmitters made by a process claimed in U.S. Letters Patent 3,800,413, owned by Rosemount.

Pursuant to Commission interim rule 210.24(e)(8) (19 CFR 210.24(e)(8)), the Commission provisionally accepted Rosemount's motion for temporary relief at the Commission meeting on October 17, 1989. The Commission also instituted an investigation of Rosemount's complaint. A notice of investigation was published in the Federal Register on October 20, 1989, 54 FR 43145. The notice named SMAR Equipment and SMAR International as respondents. On December 29, 1989, the ALJ issued her ID granting Rosemount's motion for temporary relief.

The Commission has determined to declare the temporary relief phase of this investigation more complicated because of the complex issues raised by the ID. Those issues include the standard to be used in assessing complainant's harm in light of the 1988 amendments to section 337(e) which apply the preliminary injunction standards of the Federal Rules of Civil Procedure to Commission temporary relief proceedings, and the role of the public interest factors in determining whether to grant temporary relief.

**Written Comments:** Interested persons, including the parties to this investigation, are invited to submit written comments addressing the following issues:

1. Whether, in view of the 1988 amendments to 19 U.S.C. 1337(e), the Commission should apply a standard of "irreparable" to complainant's harm even though the legislative history of the 1988 amendments states that Congress intended to codify former Commission practice, which was to apply a standard of "immediate and substantial" in assessing complainant's harm.

2. What factual showing is necessary to overcome a rebuttable presumption of irreparable harm to complainant based on a clear showing of validity and infringement in a patent-based case.

3. The weight the Commission should give to the public interest in protecting patent rights in relation to the public interest factors specifically listed in 19 U.S.C. 1337(e) in light of *Bristol-Myers v. International Trade Commission*,



unpublished opinion 89-1530 (Fed. Cir. Dec. 8, 1989).

Any such comments (original and 14 copies) must be filed with the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436 no later than February 16, 1990. Confidential submissions must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All nonconfidential submissions will be made available for inspection by interested persons in the Office of the Secretary to the Commission.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and Commission interim rule 210.59(b) (19 CFR 210.59(b)).

By order of the Commission.

Dated: January 17, 1990.

Kenneth R. Mason,

Secretary.

[FR Doc. 90-1558 Filed 1-23-90; 8:45 am]

BILLING CODE 7020-02-M

## INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 383 (Sub 16)]

Intrastate Rail Rate Authority; Mississippi

AGENCY: Interstate Commerce Commission.

ACTION: Notice of recertification.

SUMMARY: Pursuant to 49 U.S.C. 11501(b), the Commission recertifies the State of Mississippi for a 5-year period.

DATES: The recertification will be effective on February 23, 1990.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245 [TDD for hearing impaired: (202) 275-1721].

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289-4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 275-1721.]

Decided: January 16, 1990.

By the Commission, Chairman Gradison, Vice Chairman Phillips, Commissioners Simmons, Lamboley, and Emmett.

Noreta R. McGee,

Secretary.

[FR Doc. 90-1942 Filed 1-23-90; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte 385 (Sub-No. 2)]

## Clarification of Procedures on Release of Date From the ICC Waybill Sample

AGENCY: Interstate Commerce Commission.

ACTION: Notice of clarification of waybill release procedures.

SUMMARY: This clarification of the rules is to inform State Transportation Agencies and the public as to what information the States may provide to State and Local Emergency Planning Committees.

EFFECTIVE DATE: January 24, 1990.

FOR FURTHER INFORMATION CONTACT: James A. Nash, Tel: (202) 275-6864.

SUPPLEMENTARY INFORMATION: The Commission has been asked to clarify its procedures for the release of waybill data for use by State and Local Emergency Planning Committees (Emergency Committees) which were created under the Emergency Planning and Right-To-Know Act of 1986 (Right-To-Know Act, 42 USC 11001).<sup>1</sup> We are clarifying that under the waybill rules codified at 49 CFR 1244.8, the States may release appropriate hazardous material waybill data directly to these Committees.

The complete text of this Notice of Clarification of Procedures on Release of date from the ICC waybill sample may be obtained from the Interstate Commerce Commission's Office of Transportation Analysis (OTA). OTA is responsible for administering the Waybill Sample Program, and will provide to any Committee the name of the Agency in their State that has obtained the State Waybill Data.

Decided: January 17, 1990.

By The Commission, John F. Hennigan, Jr., Director, Office of Transportation Analysis.

Noreta R. McGee,

Secretary.

[FR Doc. 90-1596 Filed 1-23-90; 8:45 am]

BILLING CODE 7035-01-M

<sup>1</sup> Title III of the Superfund Amendments and Reauthorization Act of 1986, Pub. L. 99-499, October 17, 1986.

## DEPARTMENT OF JUSTICE

### Information Collections Under Review

January 16, 1990.

The Office of Management and Budget (OMB) has been sent the following collection of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information: (1) The title of the form/collection; (2) the agency form number, if any, and the applicable component of the Department sponsoring the collection; (3) how often the form must be filled out or the information is collected; (4) who will be asked or required to respond, as well as a brief abstract; (5) an estimate of the total number of respondents and the amount of time estimated for an average respondent to respond; (6) an estimate of the total public burden (in hours) associated with the collection; and, (7) an indication as to whether section 3504(h) of Public Law 96-511 applies. Comments and/or suggestions regarding the item(s) contained in this notice, especially those regarding the estimated public burden and the associated response time, should be directed to the OMB reviewer, Mr. Edward H. Clarke, on (202) 395-73340 and to the Department of Justice's Clearance Officer, Mr. Larry E. Miesse, on (202) 633-4312. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the DOJ Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Larry E. Miesse, DOJ Clearance Officer, SPS/JMD/5031 CAB, Department of Justice, Washington, DC 20530.

### New Collection

(1) Coordinating Council Study of Federal Agencies' Programs and Practices with Regard to Taking Juveniles into Custody.

(2) No form number. Office of Juvenile Justice and Delinquency Prevention, Coordinating Council on Juvenile Justice



and Delinquency Prevention, Office of Justice Programs.

(3) One time.

(4) Federal agencies or employees. Study is to review reasons why Federal agencies take juveniles into custody and to determine whether these agencies, practices are consistent with the provisions of section 223(a)(12)(A), 13, and 12 of the Juvenile Justice and Delinquency Prevention Act. The Coordinating Council will make recommendations to improve Federal practices and facilities that hold juveniles in custody, as mandated.

(5) 18 estimated respondents at 1 hour each.

(6) 18 estimated annual burden hours.

(7) Not applicable under 3504(h).

(1) Protective Custody Report for Correctional Practitioners.

(2) No form number. National Institute of Corrections.

(3) One time.

(4) Federal agencies or employees, state or local governments. This questionnaire will survey protective custody units in 62 corrections systems in the United States to analyze institutional and population characteristics and protective custody unit programming. Questionnaires will be sent to 51 central offices of state departments of corrections and 11 Federal penitentiaries.

(5) 372 estimated annual responses at 1.6 hours per response.

(6) 585 estimated public burden hours.

(7) Not applicable under 3504(h).

#### Revision of a Currently Approved Collection

(1) Criminal Justice Block Grants—Drug Control and System Improvement Formula Grant Program.

(2) OJP 4310/1, 4310/2. Bureau of Justice Assistance, Office of Justice Programs.

(3) Annually.

(4) State or local governments, non-profit institutions.

(5) 1,800 estimated annual respondents at 1 hour per response.

(6) 1,800 estimated annual public burden hours.

(7) Not applicable under 3504(h).

#### Extension of the Expiration Date of a Currently Approved Collection Without Any Change in the Substance or in the Method of Collection

(1) Department of Justice Federal Coal Lease Review Information.

(2) ATR-139, ATR-140. Antitrust Division.

(3) On occasion.

(4) Businesses or other for-profit. The

information collected from prospective Federal coal lessees will be used in the Department's review of the competitive effects of Federal coal lease issuances, transfers and exchanges.

(5) 20 estimated annual respondents at 2 hours per response.

(6) 40 estimated annual burden hours.

(7) Not applicable under 3504(h).

(1) Notice of Final Naturalization Hearing.

(2) N-445B. Immigration and Naturalization Service.

(3) On occasion.

(4) Individuals or households. Form is used by the INS to notify a U.S. citizen parent of the time, place, and location of the court where the final hearing for the naturalization of his/her child will take place.

(5) 9,000 respondents at .083 hours per response.

(6) 747 estimated annual burden hours.

(7) Not applicable under 3504(h).

(1) Application to Extend Time of Stay.

(2) I-539. Immigration and Naturalization Service.

(3) On occasion.

(4) Individuals or households. Form is used by the INS to determine eligibility for the requested extension of stay as provided for in 8 U.S.C. 1184 of the Immigration and Nationality Act.

(5) 125,000 estimated annual respondents at .332 hours per response.

(6) 41,500 estimated annual public burden hours.

(7) Not applicable under 3504(h).

Larry E. Miesse,

Department Clearance Officer, U.S.

Department of Justice.

[FR Doc. 90-1565 Filed 1-23-90; 8:45 am]

BILLING CODE 4410-10-M

## DEPARTMENT OF LABOR

### Office of the Secretary

#### Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

#### Background

The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

#### List of Recordkeeping/Reporting Requirements Under Review

As necessary, the Department of Labor will publish a list of the Agency

recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in. Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements and the average hours per respondent.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

#### Comments and Questions

Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, telephone (202) 523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue NW, Room N-1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, Room 3208, Washington, DC 20503 [Telephone (202) 395-6880].

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

#### Revision

Bureau of Labor Statistics.  
Current Employment Statistics, 1220-0089; BLS/790/RAS.

#### Monthly.

Businesses or other for-profit; Small businesses or organizations; State or local governments; Federal Agencies; Non-profit institutions.



Survey universe is 3,500 establishments; respondents burden is estimated at 350 hours; 6 minutes average time per response.

The proposed Response Analysis Survey (RAS) continues the Bureau's work to improve data quality in the BLS-790 program. Through periodic review, available data sources within the establishment can be better matched with BLS-790 definitions to reduce reporting errors.

#### Employment and Training Administration.

[JTPA Annual Status Report Revisions for Program Year 1990-1991, 1205-0211; ETA 8580.

Annually.

State or local governments.

57 respondents; 366,168 total hours; 6,424 hrs. per response; 1 form. Reporting are necessary for the Secretary to carry out responsibilities at sections 106, 165, and 169 of JTPA.

#### Extension

Employment Standards Administration. Application for Continuation of Death Benefits for Student. 1215-0073; LS-266.

On occasion.

Individuals or households; small businesses or organizations.

43 respondents; 22 total hours; .5 min. per response; 1 form.

This form is used as an application for continuation of death benefits for a dependent who is also student.

Mine Safety and Health Administration. Respirator Program Records. 1219-0048.

On occasion.

Businesses and other for profit; small businesses or organizations.

Written standard operating procedures: 600 responses; 5 hours per response; 3,000 total burden hours.

Respirator fit testing records: 1,500 responses; 15 minutes per response; 375 total burden hours.

Record date of inspections of emergency-use respirators: 750 responses; 24 seconds per response; 10 total burden hours.

Record results of inspections of emergency-use respirators: 30 responses; 15 seconds; 1 burden hour.

Respirator programs are required to be established when engineering controls fail to reduce airborne contaminants to permissible levels. Mine operators are also required to conduct fit testing of respirator devices and to keep records of the results. Fit-testing records are used to ensure that a respirator worn by an individual is in fact the one for which the individual received a tight fit. Emergency-use

respirators are required to be inspected monthly to assure that they are in satisfactory working condition.

Signed at Washington, DC, this 18th day of January 1990.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 90-1574 Filed 1-23-90; 8:45 am]

BILLING CODE 4510-43-M

#### Employment and Training Administration

[TA-W-23,212]

#### Avtex Fibers, Inc., Front Royal, VA; Negative Determination Regarding Application for Reconsideration

By an application dated October 24, 1989 the Amalgamated Clothing and Textile Workers Union (ACTWU) requested administrative reconsideration of the subject petition for trade adjustment assistance. The denial notice was signed on September 29, 1989 and published in the *Federal Register* on October 17, 1989 (54 FR 42579).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances;

(1) if it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) if, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The ACTWU claims that the "contributed importantly" test of the Trade Act was met. The union states that the firm's customers must be importing rayon staple given the relative increase of imported rayon staple in 1989 while the Avtex plant was closing.

The Department's denial was based on the fact that the "contributed importantly" test of the Group Eligibility Requirements in the Trade Act of 1974 was not met during their period applicable to the investigation. The "contributed importantly" test is generally demonstrated through a survey of the firm's customers. The Department's survey of Avtex's major customers shows that none increased their import purchases of rayon staple in 1988 compared to 1987 and in the first six months of 1989 compared to the same period in 1988.

Worker separations at Front Royal were the result of the company's

problems with the environment and safety. The Front Royal plant ceased operations in late 1989 when the State's Water Control Board revoked the plant's permit for dumping into the Shenandoah. Avtex was accused of discharging dangerous levels of polychlorinated biphenyls (PCBs) into the Shenandoah River. Other State agencies required the company to reduce its emissions of carbon disulfide and improve its landfill. The plant also has asbestos violations. The Environmental Protection Agency (EPA) has ordered that the plant undertake a \$9.1 million toxic waste cleanup and state agencies have required \$9.3 million more in repairs to fix numerous environmental and worker safety violations.

Accordingly, worker separations at Front Royal were the result of stepped up environmental enforcement efforts against the company by Virginia State officials not increased imports by Avtex's customers after the plant closed.

#### Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC., this 4th day of January 1990.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, UIS

[FR Doc. 90-1568 Filed 1-23-90; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-23,286]

#### Circuline Fabrics, Inc., Brooklyn, New York; Affirmative Determination Regarding Application for Reconsideration

A company official requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance for former workers of Circuline Fabrics, Inc., Brooklyn, New York. The negative determination was issued on October 19, 1989, and published in the *Federal Register* on October 31, 1989 (54 FR 45812).

The company official stated, among other things, this his company is not a manufacturer but a contractor.



Accordingly, a more extensive survey needs to be conducted.

#### Conclusion

After careful review of the application, I conclude that the claims are of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 12th day of January 1990.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 90-1569 Filed 1-23-90; 8:45 am]

BILLING CODE 4510-30-M

#### Mine Safety and Health Administration

[Docket No. M-89-192-C]

##### B and B Coal Co.; Modification of Application of Mandatory Safety Standard

B and B Coal Company, 225 Main Street, Joliet, Pennsylvania 17981, has filed a petition to modify the application of 30 CFR 75.1405 (automatic couplers) to its Rock Ridge No. 1 Slope Mine (I.D. No. 36-07741) located in Schuylkill County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that track haulage cars be equipped with automatic couplers.
2. Installation of automatic couplers on the track haulage cars would result in a diminution of safety to the miners affected due to the sharp radius curves in the track, the undulating pitch of the slopes, the different types of small lightweight cars, and the systems of haulage.
3. For these reasons, petitioner requests a modification of the standard.

##### Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 23, 1990. Copies of the petition are available for inspection at that address.

Dated: January 17, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-1570 Filed 1-23-90; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-89-189-C]

##### Cutter Coal Co.; Modification of Application of Mandatory Safety Standard

Cutter Coal Company, P.O. Box 475, Barbourville, Kentucky 40906 has filed a petition to modify the application of 30 CFR 75.313 (methane monitor) to its No. 1 Mine (I.D. No. 15-16714) located in Knox County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that a methane monitor be installed on electric face cutting equipment, continuous mining machines, longwall face equipment and loading machines. The monitor is required to be properly maintained and frequently tested.
2. As an alternate method, petitioner proposes to use hand-held continuous oxygen and methane monitors instead of methane monitors on three-wheel tractors as outlined in the petition.
3. In support of this request, petitioner states that:
  - (a) No methane has been detected in the mine.
  - (b) Each three-wheel tractor would be equipped with an hand-held continuous monitoring methane and oxygen detector and all persons would be trained in the use of the detector;
  - (c) Prior to allowing the coal loading tractor in the face area, a gas test would be performed to determine the methane concentration in the atmosphere. When the elapsed time between trips does not exceed 20 minutes, the air quality would be monitored continuously after each trip. This would provide continuous monitoring of the mine atmosphere for methane to assure the detection of any methane buildup between trips; and
  - (d) If one percent methane is detected, the operator would manually deenergize the battery tractor immediately. Production would cease and would not resume until the methane level is lower than one percent.
4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

##### Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 23, 1990. Copies of the petition are available for inspection at that address.

Dated: January 17, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-1571 Filed 1-23-90; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-89-193-C]

##### De'Lyn Ltd., Inc.; Modification of Application of Mandatory Safety Standard

De'Lyn Limited, Inc., P.O. Drawer 907, Skelton, West Virginia 25919 has filed a petition to modify the application of 30 CFR 75.1105 (housing of underground transformer stations, battery-charging stations, substations, compressor stations, shops, and permanent pumps) to its Mine No. 7 (I.D. No. 46-07162) located in Boone County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that air currents used to ventilate structures or areas enclosing electrical installations be coursed directly into the return.
2. As an alternate method, petitioner proposes to locate a power center in a crosscut between the belt intake airway and the main intake airway with permanent stoppings built on each end of the crosscut.
3. In support of this request, petitioner states that—
  - (a) The power center would be housed in a concrete block enclosure with an automatically closing steel man door with two automatic 10-pound fire extinguishers of ABC type located on each end;
  - (b) The fire extinguishers would also be equipped with pressure switches wired into monitoring circuits to automatically drop out the power supply at the main substation;
  - (c) A high pressure pump would be placed in the belt intake entry; and



(d) Locating the power center in this area would completely eliminate power cables from crossing any travelways where workers or equipment have to travel.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard, while compliance with the standard will result in a diminution of safety to the miners affected.

#### Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 23, 1990. Copies of the petition are available for inspection at that address.

Dated: January 17, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-1572 Filed 1-23-90; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-89-27-M]

#### Hecla Mining Co.; Modification of Application of Mandatory Safety Standard

Hecla Mining Co., P.O. Box 467, Republic, Washington 99166-0467 has filed a petition to modify the application of 30 CFR 49.8(b) (training for mine rescue teams) to its Republic Unit (I.D. No. 45-00365) located in Ferry County, Washington. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that upon completion of the initial training, all team members are required to receive at least 40 hours of refresher training annually. This training is required to be given at least 4 hours each month, or for a period of 8 hours every two months.

2. Petitioner states that requiring at least 4 hours of refresher training each month or 8 hours every two months would result in a diminution of safety for the underground personnel because most of the experienced mine rescue personnel would resign.

3. In support of this request, petitioner states that—

(a) Most of the rescue team personnel are veterans; and

(b) Adequacy of training cannot be measured in hours spent in training. Performance and knowledge are the only valid criteria.

4. For these reasons, petitioner requests a modification of the standard.

#### Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 23, 1990. Copies of the petition are available for inspection at that address.

Dated: January 17, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-1573 Filed 1-23-90; 8:45 am]

BILLING CODE 4510-43-M

#### Occupational Safety and Health Administration

##### Maryland State Standards; Approval

1. *Background*—Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) [29 CFR 1953.4], will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR part 1902. On July 5, 1973, notice was published in the Federal Register (38 FR 17834) of the approval of the Maryland State plan and the adoption of subpart O to part 1952 containing the decision.

The Maryland State Plan provides for the adoption of all Federal standards as State standards after comments and public hearing. Section 1952.210 of subpart O sets forth the State's schedule for the adoption of Federal standards. By letters dated December 11, 1989, from Commissioner Henry Koellein, Jr., Maryland Division of Labor and Industry, to Linda R. Anku, Regional Administrator, and incorporated as part

of the plan, the State submitted State standards identical to: (1) 29 CFR 1910.1000, subpart Z, pertaining to an amendment to the Air Contaminants Standards for General Industry as published in the Federal Register of July 5, 1989 (54 FR 28059), and (2) 29 CFR 1910.120, subpart H, pertaining to Hazardous Waste Operations and Emergency Response for General Industry as published in the Federal Register of March 6, 1989 (54 FR 9317). These standards are contained in COMAR 09.12.31. Maryland Occupational Safety and Health Standards were promulgated after a public hearing on September 22, 1989. These standards were effective on November 27, 1989.

2. *Decision*—Having reviewed the State submissions in comparison with the Federal standards, it has been determined that the State standards are identical to the Federal standards and accordingly are approved.

3. *Location of the Supplements for Inspection and Copying*—A copy of the standards supplements, along with the approved plan, may be inspected and copied at the following locations during normal business hours: Office of the Regional Administrator, 3535 Market Street, Suite 2100, Philadelphia, Pennsylvania 19104; Office of the Commissioner of Labor and Industry, 501 St. Paul Place, Baltimore, Maryland 21202; and the OSHA Office of State Programs, Room N-3700, Third Street and Constitution Avenue NW., Washington, DC 20210.

4. *Public Participation*—Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Maryland State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

a. The standards are identical to the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

b. The standards were adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

This decision is effective January 24, 1990. (Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))



Signed at Philadelphia, Pennsylvania, this 28th day of December 1989.

Richard Soltan,

Deputy Regional Administrator.

[FR Doc. 90-1575 Filed 1-23-90; 8:45 am]

BILLING CODE 4510-26-M

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[90-08]

### NASA Advisory Council (NAC), Space Station Advisory Committee (SSAC); Meeting

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Station Advisory Committee.

**DATES:** February 13, 1990, 8:30 a.m. to 5 p.m. and February 14, 1990, 8:30 a.m. to 2 p.m.

**ADDRESS:** Holiday Inn Capitol, 550 C Street SW., Lewis Room, Washington, DC 20024.

**FOR FURTHER INFORMATION CONTACT:** Dr. W.P. Raney, Code S, National Aeronautics and Space Administration, Washington, DC 20546, 202/453-4165.

**SUPPLEMENTARY INFORMATION:** The Space Station Advisory Committee (SSAC) is a standing committee of the NASA Advisory Council, which advises senior management on all Agency activities. The SSAC is an interdisciplinary group charged to advise Agency management on the development, operation, and utilization of the Space Station. The committee is chaired by Mr. Laurence J. Adams and is composed of 20 members including individuals who also serve on other NASA advisory committees.

This meeting will be open to the public up to the seating capacity of the room (which is approximately 40 persons including team members and other participants). It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the participants.

Type of Meeting: Open.

#### Agenda

February 13, 1990

8:30 a.m.—Administrative Items.

Procurement and Ethics.

9:30 a.m.—Program Update.

Congressional.

Management.  
Status of Rephasing.  
10:30 a.m.—Rebaselining.  
User Requirements.  
Polar Platforms.

11 a.m.—Related Programs  
Tracking and Data.  
Human Exploration.  
Transportation.

1 p.m.—Assembly Sequence Status.

1:45 p.m.—Verification Planning.

2:30 p.m.—Preliminary Design Review.

3 p.m.—Discussion.

5 p.m.—Adjourn.

February 14, 1990

8:30 a.m.—Reports.

Space Station Science and  
Applications Advisory Subcommittee  
(SSSAAS).

Aerospace Medicine Advisory  
Committee (AMAC).  
Station Institution.

10 a.m.—Open Items.  
Preparation of Position.  
Future Activities.

2 p.m.—Adjourn.

Dated: January 18, 1990.

John W. Gaff,

Advisory Committee Management Officer,  
National Aeronautics and Space  
Administration.

[FR Doc. 90-1597 Filed 1-23-90; 8:45 am]

BILLING CODE 7510-01-M

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### Agency Information Collection Activities Under OMB Review

**AGENCY:** National Endowment for the Arts.

**ACTION:** Notice.

**SUMMARY:** The National Endowment for the Arts (NEA) has sent to the Office of Management and Budget (OMB) the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

**DATES:** Comments on this information collection must be submitted by February 23, 1990.

**ADDRESSES:** Send comments to Mr. Jim Houser, Office of Management and Budget, New Executive Office Building, 726 Jackson Place NW., room 3002, Washington, DC 20503; (202-395-7316). In addition, copies of such comments may be sent to Mrs. Anne C. Doyle, National Endowment for the Arts, Administrative Services Division, room 203, 1100 Pennsylvania Avenue NW., Washington, DC 20506 (202-682-5401).

**FOR FURTHER INFORMATION CONTACT:** Mrs. Anne C. Doyle, National

Endowment for the Arts, Administrative Services Division, room 203, 1100 Pennsylvania Avenue NW., Washington, DC 20506 (202-682-5401) from whom copies of the documents are available.

**SUPPLEMENTARY INFORMATION:** The Endowment requests the revision of a currently approved collection of information. This entry is issued by the Endowment and contains the following information:

(1) The title of the form; (2) how often the required information must be reported; (3) who will be required or asked to report; (4) what the form will be used for; (5) an estimate of the number of responses; (6) the average burden hours per response; (7) an estimate of the total number of hours needed to prepare the form. This entry is not subject to 44 U.S.C. 3504(h).

**Title:** Opera-Musical Theater Program Application Guidelines FY 1991.

**Frequency of Collection:** One time.

**Respondents:** Individuals or households; State or local governments; Non-profit institutions.

**Use:** Guidelines instructions and applications elicit relevant information from individual artists, nonprofit organizations, and state or local arts agencies that apply for funding under specific Opera-Musical Theater Program categories. This information is necessary for the accurate, fair and thorough consideration of competing proposals in the peer review process.

**Estimated Number of Respondents:** 345.  
**Average Burden Hours per Response:** 50.

**Total Estimated Burden:** 17,312.

Anne C. Doyle,

Administrative Services Division, National  
Endowment for the Arts.

[FR Doc. 90-1566 Filed 1-23-90; 8:45 am]

BILLING CODE 7537-01-M

### Meeting of Expansion Arts Advisory Panel

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Expansion Arts Advisory Panel (Multidisciplinary Section) to the National Council on the Arts will be held on February 20-22, 1990, from 9:00 a.m.-6:00 p.m. and on February 23, from 9:00 a.m.-5:30 p.m. in room 718 at the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.



A portion of this meeting will be open to the public on February 20, 1990, from 9:00 a.m.-10:30 a.m. and February 23, 1990, from 3:00 p.m.-5:30 p.m. The topics for discussion will be general program overview and policy issues.

The remaining portions of this meeting on February 20, 1990, from 10:30 a.m.-6:00 p.m.; February 21-22 from 9:00 a.m.-6:00 p.m. and on February 23 from 9:00 a.m.-3:00 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and (9)(B) of section 552b of title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Dated: January 8, 1990.

Yvonne M. Sabine,

Director, Council and Panel Operations,  
National Endowment for the Arts.

[FR Doc. 90-1579 Filed 1-23-90; 8:45 am]

BILLING CODE 7537-01-M

#### Meeting of Expansion Arts Advisory Panel

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Expansion Arts Advisory Panel (Visual Arts, Media, Design, Literacy Arts Section) to the National Council on the Arts will be held on February 6-7, 1990, from 9:00 a.m.-6:00 p.m. and on February 8, 1990, from 9:00 a.m.-8:00 p.m. and on February 8, 1990, from 9:00 a.m.-5:30 p.m. in Room 718 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

A portion of this meeting will be open to the public on February 6, 1990, from

9:00 a.m.-10:30 a.m. and February 8, 1990, from 3:00 p.m.-5:30 p.m. The topics for discussion will be general program overview and policy issues.

The remaining portions of this meeting on February 6, 1990, from 10:30 a.m.-6:00 p.m.; February 7 from 9:00 a.m.-6:00 p.m. and on February 8 from 9:00 a.m.-3:00 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Dated: January 9, 1990.

Yvonne M. Sabine,

Director, Council and Panel Operations,  
National Endowment for the Arts.

[FR Doc. 90-1580 Filed 1-23-90; 8:45 am]

BILLING CODE 7537-01-M

#### Meeting of Inter-Arts Advisory Panel

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Inter-Arts Advisory Panel (Services to the Arts/Artists Communities Section) to the National Council on the Arts will be held on February 7-8, 1990, from 9:00 a.m.-6:00 p.m. and on February 9, 1990, from 9:00 a.m.-3:00 p.m. in room 730 at the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

A portion of this meeting will be open to the public on February 9, 1990, from 11:00 a.m.-3:00 p.m. The topics for discussion will be guideline review and policy discussion.

The remaining portions of this meeting on February 7-8, 1990, from 9:00 a.m.-

6:00 p.m. and on February 9, 1990, from 9:00 a.m.-11:00 a.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Dated: January 9, 1990.

Yvonne M. Sabine,

Director, Council and Panel Operations,  
National Endowment for the Arts.

[FR Doc. 90-1577 Filed 1-23-90; 8:45 am]

BILLING CODE 7537-01-M

#### Meeting of Museum Advisory Panel

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Museum Advisory Panel (Special Exhibitions Pre-screening Section) to the National Council on the Arts will be held on February 7-9, 1990, from 9:15 a.m.-5:30 p.m. in room M14 at the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

A portion of this meeting will be open to the public on February 7, 1990, from 9:15 a.m.-10:00 a.m. The topics for discussion will be opening remarks and general discussion.

The remaining portions of this meeting on February 7, 1990, from 10:00 a.m.-5:30 p.m. and on February 8-9, 1990, from 9:15 a.m.-5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in



confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the *Federal Register* of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and (9)(B) of section 552b of title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Dated: January 9, 1990.

Yvonne M. Sabine,

*Director, Council and Panel Operations,  
National Endowment for the Arts.*

[FR Doc. 90-1578 Filed 1-23-90; 8:45 am]

BILLING CODE 7537-01-M

## NUCLEAR REGULATORY COMMISSION

### Biweekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

#### I. Background

Pursuant to Public Law (P.L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular biweekly notice. P.L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from December 29, 1989 through January 11, 1990. The last biweekly notice was published on January 10, 1990 (55 FR 927).

### NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this *Federal Register* notice. Written comments may also be delivered to Room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By February 23, 1990 the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a

current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the Local Public Document Room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish



those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may

be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (Project Director): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

**Baltimore Gas and Electric Company, Docket Nos. 50-317 and 50-318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland**

**Date of amendment request:** June 16, 1988, as supplemented on December 4, 1989

**Description of amendment request:** The following proposed changes to the Calvert Cliffs Units 1 and 2 Technical Specifications (TS) were requested by the Baltimore Gas and Electric Company (BG&E, the licensee) in its submittal dated June 16, 1988 which was supplemented on December 4, 1989.

The changes proposed would (1) modify TS 3/4.6.2, "Depressurization and Cooling Systems," to exclude valves that are locked, sealed or otherwise secured in position from being verified in the monthly flow path surveillance of TS 4.6.2.1.a.2; and (2) delete the TS 3/4.7.11, "Fire Suppression Systems," requirement that the TS 4.7.11.1.2.c 18-month surveillance tests of the fire pump diesel engine be performed with the

reactor units shutdown. These surveillances consist of a diesel inspection and a diesel autostart test.

**Basis for proposed no significant hazards consideration determination:** The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety. The licensee has evaluated these proposed Changes Nos. 1 and 2 against the standards of 10 CFR 50.92 and has determined that the amendments would not:

(i) Involve a significant increase in probability or consequences of an accident previously evaluated...

#### Change No. 1:

This change is administrative and does not affect those accidents evaluated in the Updated Final Safety Analysis Report (FSAR). The requirement to verify locked, sealed, or otherwise secured in position valves is not necessary because the chance that they will be taken out of this condition inadvertently is very small and if they are deliberately taken out of this condition the Surveillance Requirement becomes applicable and they will be checked.

#### Change No. 2:

The proposal to modify Technical Specification Surveillance Requirement 4.7.11.1.2.c affects only the diesel-driven fire pump. An electrically driven fire pump is not affected and will still be available along with two back-up pumps. The surveillances will be performed during plant operation when the likelihood of a fire is reduced. Due to the nature of outage maintenance activities, the probability of a fire is greater during shutdown. The frequency of the surveillance will not be changed, only the required plant condition.

Consequently, the proposed changes would not result in any increase in the probability or consequences of previously evaluated accidents.

(ii) Create the possibility of a new or different type of accident from any accident previously evaluated...

#### Change No. 1:

No new or different kinds of accident from those previously evaluated in the Updated FSAR are created by this change. No equipment changes or changes in operating philosophy are involved.

#### Change No. 2:

This proposed change does not create the possibility of any new or different accidents as no plant modifications or changes in system operation or surveillance testing, other than plant mode, shall be made.



Thus, the changes would not create the possibility of any new or different type of accident.

(iii) Involve a significant reduction in a margin of safety...

**Change No. 1:**

Valves affected by this change are locked, sealed, or otherwise secured in position. Although this change will remove the requirement that they be verified, the very fact that they are locked, sealed, or otherwise secured in position makes this verification requirement unnecessary. The probability of inadvertent operation of these valves is nearly non-existent, and if any of these valves is deliberately taken out of its locked, sealed or otherwise secured condition, the Surveillance Requirement will apply and the valve will require check if not put back into its locked, sealed or otherwise secured condition.

**Change No. 2:**

Changing the required plant condition or mode of operation for these surveillances does not involve a reduction in any margin of safety. The likelihood of a plant fire during unit operation is much smaller than during outage work periods. Thus, by permitting the surveillance activities during plant operation rather than a plant shutdown, a margin of safety will not be reduced.

Therefore, these changes would not involve any reduction in any margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination analysis. Based upon this review, the staff believes that the licensee has met the three standards.

Consequently, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

**Local Public Document Room**

location: Calvert County Library, Prince Frederick, Maryland.

Attorney for licensee: Jay E. Silbert, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Robert A. Capra

Boston Edison Company, Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

**Date of amendment request:**

December 11, 1989

**Description of amendment request:**

The proposed amendment would change the minimum acceptable core spray pump flow rate for each pump from the current technical specification limit of 3600 gpm to 3300 gpm. The bases section of the technical specifications are also updated to reflect the proposed change in the minimum flow rate for the core spray pumps. The current 3600 gpm limit is very close to the core spray pump capacity limit. Small variations in pump performance or testing can effect the system and result in failure of meeting

the minimum pump flow rate of 3600 gpm placing the plant in a Limiting Conditions of Operation (LCO). The proposed change reduces the potential for entering unnecessary LCOs. The proposed limit of 3300 gpm is bounded by the existing design basis for the core spray system.

**Basis for proposed no significant hazards consideration determination:**

The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from an accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee addressed the above three standards in the amendment application. In regard to the three standards, the licensee provided the following analysis.

(1) Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The safety function of the Core Spray System is to provide essential cooling water to the reactor vessel when normal reactor coolant is incapable of preventing overheating of the fuel and cladding. The system is designed to automatically inject water drawn from the torus onto the top of the core following a Design Basis Accident (DBA) Loss of Coolant Accident (LOCA) and vessel depressurization. Lowering the threshold defining acceptable pump performance to 3300 gpm minimum flow does not affect the safety function of the Core Spray System.

The Core Spray System will continue to protect the fuel and cladding against overheating and degradation following a LOCA by maintaining peak clad temperatures below 2200 degrees Fahrenheit, less than 17 percent local metal-water reaction, and less than 1 percent core wide metal-water reaction, thereby meeting 10CFR50.46 requirements. Since the proposed change is bounded by the existing parameters defining the design basis of Core Spray pump flow performance, operating Pilgrim in accordance with the change does not involve a significant increase in the probability or consequences of an accident previously analyzed.

(2) Use of the modified specification would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The new analyzed value of 3240 gpm increases DBA peak clad temperature (PCT) by 45 degrees Fahrenheit to 2185. This value

is below the 2200 degrees Fahrenheit PCT required by 10CFR50.46 and used in Pilgrim's Final Safety Analysis Report (FSAR), Section 14.

The proposed pump flow rate of 3300 gpm is greater than the analyzed value necessary to maintain PCT below the required 2200 degrees Fahrenheit; therefore, the effect of 3300 gpm on PCT is bounded by the analyzed value. No physical change is being made to Pilgrim. The Core Spray System is unchanged except for a lowering of pump performance acceptance criteria. The system will continue to perform its function and continue to remain in conformance with the requirements of 10CFR50.46 and Appendix K. Hence, the change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Use of the modified specification would not involve a significant reduction in a margin of safety.

Reducing the current Core Spray pump flow rate of 3600 gpm by 10 percent results in a calculated PCT increase of 45 degrees Fahrenheit to a value of 2185 degrees Fahrenheit. This PCT is less than the 2200 degrees Fahrenheit safety limit. The postulated worst case accident scenario assumes pump flow performance at the reduced rate of 3240 gpm, the worst postulated LOCA event occurring in conjunction with a loss of offsite power, and an additional failure of an active component.

Hence, the small reduction in the acceptable core spray flow rate does not significantly impact the safety margin during accidents requiring mitigation by ECCS, and the proposed change results in a PCT within the acceptable range as defined by Pilgrim's FSAR. Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination analysis. Based upon this review, the staff agrees with the licensee's analysis. Therefore, based upon the above discussion, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

**Local Public Document Room location:** Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360

Attorney for licensee: W. S. Stowe, Esq., Boston Edison Company, 800 Boylston Street, 36th Floor, Boston, Massachusetts 02199

NRC Project Director: Richard H. Wessman

The Cleveland Electric Illuminating Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50-440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

**Date of amendment request:** December 18, 1989



**Description of amendment request:**

The proposed amendment would revise section 4.0.2 of the Technical Specifications (TS) for the Perry Nuclear Power Plant, Unit No. 1, to delete the current limitation on extending surveillance intervals that the combined time interval for any three consecutive surveillance intervals shall not exceed 3.25 times the surveillance interval. Currently, surveillance intervals may be extended up to twenty-five percent of the specified interval so long as the above limitation is adhered to. This amendment proposes to remove that limitation.

**Basis for proposed no significant hazards consideration determination:**

The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

The licensee has reviewed the proposed changes in accordance with the requirements of 10 CFR 50.92 and has determined that the request does not involve a significant hazards consideration. The licensee has included the following in their basis for determination:

(1) The proposed change does not involve a significant increase in the probability or consequences of a previously evaluated accident for [several] reasons. ...the 3.25 surveillance interval extension criteria of T.S. 4.0.2b was not depended upon in the accident/transient analyses of PNPP's Updated Safety Analysis Report (USAR) Chapter 15. Also, removal of the 3.25 limit on extension of surveillance intervals does not involve a physical change or alteration to any plant component or system which could cause the probability of an accident or transient to increase.

...the allowance to extend surveillance intervals by 25 percent can result in a ... safety benefit for surveillances that are performed on a routine basis during plant operation. This safety benefit is incurred when a surveillance interval is extended at a time when conditions are not suitable for performing the surveillance, for example, during transient plant operating conditions or when safety systems are out-of-service due to on-going surveillance or maintenance activities.

In such cases, the safety benefit obtained by use of the 25-percent allowance for extending the surveillance interval unrestricted by the 3.25 limit would outweigh

any benefit derived by limiting three consecutive surveillance intervals to the 3.25 limit.

...equipment will continue to be proven operable on a regular basis in accordance with new Specification 4.0.2:

(i) It is overly conservative to assume that systems or components are inoperable when a surveillance requirement has not been performed within the 3.25 (T.S. 4.0.2b) extension limitation where performance of the surveillance is otherwise possible within the allowable 25-percent extension limit of T.S. 4.0.2(a).

(ii) Extension of surveillance intervals will continue to be limited by the current 25-percent restriction of T.S. 4.0.2a;

Since this change does not result in a physical change or alteration to any component or system, and since the equipment on which the surveillances are being performed will continue to be proven operable and will continue to be available to respond to mitigate any previously evaluated transients or accidents, the consequences of such events will not be increased.

(2) The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed change does not involve a change in the design of any plant system or component nor does it involve a change in the operation of any plant system or component. The surveillance interval will continue to be limited to the 25-percent interval extension criteria of the current T.S. 4.0.2a.

(3) The proposed change does not involve a significant reduction in the margin of safety because surveillance intervals will continue to be constrained by the 25-percent extension limitation of the current T.S. 4.0.2a, which provides an allowable tolerance for performing surveillance requirements beyond those specified in the normal surveillance interval. The surveillance limitation of T.S. 4.0.2a is based on engineering judgment and the recognition that the most probable result of any particular surveillance being performed is the verification of conformance with the surveillance requirements. It is maintained that the 25 percent limitation is sufficient to ensure that the reliability of equipment verified through surveillance activities is not significantly degraded beyond that obtained from the specified surveillance interval.

The NRC staff has reviewed and agrees with the licensee's evaluation. Therefore, the NRC staff proposes to determine that the proposed amendment involves no significant hazards considerations.

**Local Public Document Room location:** Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

**Attorney for licensee:** Jay Silberg, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

**NRC Project Director:** John N. Hannon.

**Commonwealth Edison Company,**  
Docket Nos. 50-456 and 50-457,  
Braidwood Station, Unit Nos. 1 and 2,  
Will County, Illinois.

**Date of application for amendments:**  
October 19, 1989 and amended January 9, 1990

**Description of amendments request:**  
The amendments would revise Technical Specifications to allow the use of VANTAGE 5 fuel and the combination of VANTAGE 5 fuel and the present Optimized Fuel Assembly (OFA) core at Braidwood Station, Units 1 and 2.

**Basis for proposed no significant hazards consideration determination:**

The NRC staff has evaluated these proposed amendments and has determined that it involves no significant hazards consideration. According to 10 CFR 50.92(c), a proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendments would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The proposed change in fuel types does not involve a significant hazard. This is based on the staff's review and approved Westinghouse document, WCAP-10444-P-A, "VANTAGE 5 Fuel Assembly Reference Core Report," and review of VANTAGE 5 documentation provided by Westinghouse in support of the VANTAGE 5 safety analysis report. Additionally, a no significant hazards determination was made because:

1. The changes do not involve a significant increase in the probability or consequences of an accident previously evaluated. The Westinghouse VANTAGE 5 reload fuel assemblies for Braidwood Station are mechanically compatible with the current Optimized Fuel Assembly (OFA) fuel assemblies, control rods, and reactor internals interfaces. The VANTAGE 5 and OFA fuel assemblies satisfy the safety criteria which form the current design basis for the Braidwood Station. Further, the reload VANTAGE 5 fuel assemblies are hydraulically compatible with the OFA fuel assemblies from the previous core.

2. This change does not create the possibility of a new or different kind of accident from any accident previously evaluated. The use of VANTAGE 5 fuel does not impact the safe operation of



the reactor, provided the existing and proposed safety limits, as well as the Limiting Conditions for Operation (LCOs) and the associated action requirements, are satisfied. All current safety limits will continue to be maintained. The safety limits and LCOs in the Plant Technical Specifications will be addressed and evaluated for each reload core design and will therefore take into account appropriate fuel enrichment and burnup. By observing the bounding limits specified in the criticality analysis for the Braidwood fuel storage racks, the consequences of accidents remain within the existing accident criteria. Other than the use of the VANTAGE 5 fuel, the proposed changes do not involve any equipment additions or modifications at the station. Currently installed equipment will not be operated in any manner different than previously operated or analyzed.

3. These changes do not involve a significant reduction in the margin of safety. In a mixed core of VANTAGE 5 and OFA assemblies, the Intermediate Flow Mixer (IFM) grids in the VANTAGE 5 assemblies result in a localized flow redistribution between adjacent VANTAGE 5 and OFA assemblies. The effect of this localized flow redistribution is bounded by applying penalties to the transient core DNBR and Large Break LOCA PCT results for those calculated in the analysis of a complete VANTAGE 5 fueled core. In addition, the core hydraulic resistance due to the IFM grids results in an increase in the control rod scram time to the dashpot from 2.4 to 2.7 seconds. This increase, as well as the other effects of the change in design, has been incorporated into the non-LOCA and LOCA analyses, indicating that the ANS Conditions II, III, and IV acceptance criteria, endorsed by the NRC staff in NUREG-0800, are still met.

**Local Public Document Room**  
location: Wilmington Township Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

**Attorney to licensee:** Michael Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60690.

**NRC Project Director:** John W. Craig

**Commonwealth Edison Company,**  
Docket Nos. 50-295 and 50-304, Zion Nuclear Power Station, Unit Nos. 1 and 2, Lake County, Illinois

**Date of application for amendment:**  
July 18, 1989, as supplemented December 8, 1989

**Description of amendment request:**  
The proposed amendment would remove the Aircraft Fire Detection System from the Technical

Specifications for Zion Units 1 and 2. The Commonwealth Edison Company has provided the analysis to demonstrate that the probability of an aircraft crash near the Zion site is sufficiently low enough to warrant the removal of this system at Zion Station.

**Basis for proposed no significant hazards consideration determination:**  
The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

The Commonwealth Edison Company has evaluated the proposed amendment against the standards in 10 CFR 50.92 and has provided the following analysis:

**Item 1**  
The removal of the Aircraft Fire Detection System from Technical Specifications will have no effect on the probability or consequences of any accident previously evaluated. As discussed in the Aircraft Crash Fire Detection System Probabilistic Risk Evaluation Report by Fluor Daniel, January 1989, and as recommended by Commonwealth Edison PWRE Department, the risk associated with an aircraft crash causing a fire hazard within sufficient proximity to ventilation intakes will NOT exceed the probability of occurrence limits as addressed in the Standard Review Plan Section 3.5.1.6. In fact, the report concludes that qualitative arguments exist which may conservatively reduce the probabilities by 50%. Therefore, based upon the results of the report, the probability or consequences of any accident previously evaluated will be unaffected by the removal of the Aircraft Fire Detection System from the Technical Specifications.

**Item 2**  
As discussed above, since the probability of an increase in the risk to a fire hazard caused by an aircraft crash near ventilation intakes has been analyzed to be less than that required by the Standard Review Plan Sections 2.2.3 and 3.5.1.6, there is no need to determine the potential for a new or different kind of accident due to the elimination of the Aircraft Fire Detection System from the Technical Specifications.

**Item 3**  
The margin of safety at Zion Station is unaffected by this proposed amendment since the probability risk evaluation has clearly identified that an aircraft crash creating a fire hazard at the station is lower than the requirements of 10<sup>-6</sup> per year as stated in Standard Review Plan Section 3.5.1.6.

Therefore, since the proposed amendment satisfies the criteria specified in 10 CFR 50.92, Commonwealth Edison Company has made a determination that the application involves no significant hazards consideration.

The NRC staff has reviewed the licensee's no significant hazards consideration determination and, in general, agrees with the licensee's conclusion. The Aircraft Fire Detection system is used to limit the consequences from an aircraft crash near the intake structure for ventilation system for certain vital areas. If the probability of such an aircraft crash fire is lower than the acceptance criteria used by the staff, the removal of this system would not significantly change the consequences from aircraft crash fire near Zion Station. Based on this review, the staff, therefore, determines that the proposed amendment does not involve a significant hazard consideration.

**Local Public Document Room**  
location: Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085.

**Attorney to licensee:** Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60603.

**NRC Project Director:** John W. Craig

**Duquesne Light Company, Docket Nos. 50-334 and 50-412, Beaver Valley Power Station, Unit Nos. 1 and 2, Shippingport, Pennsylvania**

**Date of amendment request:**  
December 12, 1989

**Description of amendment request:**  
The proposed amendment would revise specification 4.0.2 and associated bases of the Technical Specifications in accordance with the guidance provided in Generic Letter 89-14. The amendment would remove the requirement to combine the time interval for any three consecutive surveillance intervals and limiting this value to less than 3.25 times the specified surveillance interval.

**Basis for proposed no significant hazards consideration determination:**  
The Commission has provided standards for determining whether a significant hazards consideration exists in accordance with 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.



The proposed change involves removing a requirement which has been frequently lifted for various plants by the staff. The subject limitation has not been a practical one, unnecessarily restrictive on plant operation, and has been at times detrimental to safety since it required surveillance be done when conditions were not suitable. The proposed amendment is only administrative. No system, component or operational procedure changes are involved with this amendment; hence the answers to criteria (1) and (2) are negative. No safety analysis assumptions or acceptance criteria are to be changed; hence the answer to criterion (3) is also negative.

The staff therefore proposes to determine that the requested amendment involves no significant hazards considerations.

**Local Public Document Room location:** B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

**Attorney for licensee:** Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

**NRC Project Director:** John F. Stolz

Florida Power Corporation, et al., Docket No. 50-362, Crystal River, Unit No. 3, Nuclear Generating Plant, Citrus County, Florida

**Date of amendment request:** July 26, 1989, as revised October 31, 1989.

**Description of amendment request:** To ensure that reactor vessels do not fracture, limits have been placed on the allowable temperatures and pressures to which the vessel may be subjected. As the vessel ages, these limits must be re-evaluated and changed. The numerical values of these pressure and temperature limits are currently included in the Technical Specifications (TS). Since they are a part of the TS, each time a re-evaluation of the limits is made, a license amendment is required. The proposed amendment would remove the specific values of the pressure and temperature limits from the TS and relocate them to a Pressure/Temperature Limits Report. In addition, the amendment would add the term Pressure/Temperature Limits Report to the Definitions sections of the TS. The requirement to calculate pressure and temperature limits in accordance with approved methodologies and to operate within these limits will remain in the TS.

**Basis for proposed no significant hazards consideration determination:** The Commission has provided standards for determining whether a significant hazards consideration exists

(10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

In regard to the first criterion, the licensee states that the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated since the requirement to operate within the calculated pressure and temperature limits will remain in the TS. The proposed amendment would merely relocate these limits to a Pressure/Temperature Limits Report.

In regard to the second criterion, the licensee states that the proposed amendment would not create the possibility of a new or different accident from any accident previously evaluated since the values of the pressure and temperature limits must still be determined using approved methodologies and, again, since the requirement to operate within these limits remains unchanged.

In regard to the third criterion, the licensee states that the proposed amendment will not result in a significant reduction in a margin of safety. The licensee states that since the requirements to calculate pressure and temperature limits using approved methodologies, the requirement to stay within these limits, and the required action should these limits be violated remain unchanged, the margin of safety also remains unchanged.

The staff has performed a preliminary review of the licensee's proposed change and agrees that the criteria of 10 CFR 50.92 are met. Therefore, the staff proposes to determine that the proposed amendment involves no significant hazards consideration.

**Local Public Document Room location:** Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida 32629

**Attorney for licensee:** A. H. Stephens, General Counsel, Florida Power Corporation, MAC - A5D, P. O. Box 14042, St. Petersburg, Florida 33733

**NRC Project Director:** Herbert N. Berkow

Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas, Docket Nos. 50-498 and 50-499 South Texas Project, Units 1 and 2, Matagorda County, Texas

**Date of amendment request:** June 28, 1989 as supplemented November 29, 1989

**Description of amendment request:** The changes are proposed, in part, to modify the technical specifications (TSs) to recognize that the South Texas site includes two containments of the same design and permit an integrated surveillance program. Changes are also proposed which incorporate the results of industry experience with containment tendon systems.

The proposed changes are: (1) Change Limiting Condition for Operation (LCO) 3.6.1.6(a) to utilize the average of all measured prestressing forces for each group as abnormal degradation when found below the minimum stress for that group. The present LCO uses a criteria of more than one tendon between the predicted lower limit and 90% of the predicted lower limit, or with one tendon below 90% of the predicted lower limit; (2) Change LCO 3.6.1.6(b) to allow a longer period of time (15 days vs. 72 hours) to evaluate the indicated abnormal degradation of structural integrity before plant shutdown is required; (3) Change Surveillance Specification 4.6.1.6 to allow for combined inspections of two similar containments such that the two containments will be subjected to prestress monitoring and tendon detensioning with associated inspections and/or tests on an alternating basis; (4) Proposed tendon simple size using a percentage (4%) of the tendon population in each group with limitations on the minimum and maximum number of tendons to be inspected; (5) Change from 5% to 10% the elongation difference corresponding to a specific load compared to that recorded during installation; (6) Deletion of specific reference to the average minimum design values for lift-off stress. It is proposed to control the design values through use of reviews under 10 CFR part 50.59; (7) Change Surveillance Specification 4.6.1.6.1(d) to permit the quantity of grease replaced in excess of the grease removed to be 10% rather than the present value of 5%; (8) The inclusion of acceptable tolerance limits for chemical properties of the filler material; and (9) Inspection of end anchorages and adjacent concrete surfaces during containment



surveillance rather than during Type A leakage rate testing.

**Basis for proposed no significant hazards consideration determination:** The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The licensee reviewed the proposed change and has submitted the following no significant hazards evaluation:

1) The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change has no effect on the probability of occurrence of an accident because no physical modifications are involved, the containment mitigates the consequences of an accident and cannot increase the probability of occurrence of an accident. The consequences of an accident are not significantly increased because the containment is not modified and the proposed change will not impact the program to detect degradation of the containment, thus insuring that the structural integrity of containment is maintained.

2) The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not alter any safety related equipment or its safety functions; it revises the surveillance program.

3) The proposed revision the Technical Specification does not result in a significant reduction in the margin of safety.

The margin of safety is not affected by a revision to the post-tensioning system surveillance. Neither the calculated maximum accident pressure nor the maximum internal structural design pressure is affected by the proposed revision to the Technical Specifications.

A revision to the surveillance for the containment tendons will not allow degradation of the tendons to go undetected, allowing a condition that could compromise the structural integrity of the containment.

The staff has reviewed the licensee's no significant hazards consideration determination. Based on the review and the above discussions, the staff proposed to determine that the proposed changes do not involve a significant hazards consideration.

**Local Public Document Rooms**

Location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton Texas

77488 and Austin Public Library, 810 Guadalupe Street, Austin, Texas 78701

Attorney for licensee: Jack R. Newman, Esq., Newman & Holtzinger, P.C., 1615 L Street, NW., Washington, DC 20036

NRC Project Director: Frederick J. Hebdon

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: June 6, 1989

**Description of amendment request:** In response to the Nuclear Regulatory Commission's recommendations published in Generic Letter 88-06 dated March 22, 1988, Nebraska Public Power District has requested the removal of Technical Specification Figures 6.1.1 and 6.1.2, titled "NPPD Nuclear Power Group Organization Chart" (P236) and "NPPD Cooper Nuclear Station Organization Chart" (P237), respectively, and all references thereto.

Generic Letter 88-06 also specifies that concurrent with the removal of the organizational charts from the licensee's Technical Specifications, the following general requirements should be added:

1. Line of authority, responsibility, and communication shall be established and defined from the highest management levels through intermediate levels to and including all operating organization positions. Those relationships shall be documented and updated, as appropriate, in the form of organization charts, functional descriptions of departmental responsibilities and relationships, and job descriptions for key personnel positions, or in equivalent forms of documentation.

This requirement will be met through the addition of new Section 6.1.2.A to the Cooper Nuclear Station (CNS) Technical Specifications. The District has reviewed and approved a change to the CNS Updated Safety Analysis Report (USAR) which upgrades the operating organization description by incorporating the Nuclear Power Group (NPG) onsite and offsite organizational charts and departmental descriptions of responsibilities. The affected USAR pages reflecting this change were submitted to the NRC by letter dated January 13, 1989. This change will be reflected in the next annual 10 CFR 50.71(e) USAR revision due to be submitted on or before July 22, 1989.

2. Designation of a management position in the onsite organization that is responsible for overall unit operation and has control over those onsite activities necessary for safe operation and maintenance of the plant.

This will be accomplished through the addition of new Section 6.1.2.B to the CNS Technical Specifications. Section 6.1.2.B will designate the Division Manager of Nuclear Operations as responsible for these activities.

3. Designation of an executive position that has corporate responsibility for overall plant nuclear safety and authority to take such measures as may be needed to ensure acceptable performance of staff in operating, maintaining, and providing technical support to the plant to ensure nuclear safety.

This will be met through the addition of new Section 6.1.2.C to the CNS Technical Specifications. Section 6.1.2.C will designate the Nuclear power Group Manager as responsible for these activities.

4. Designation of those positions in the onsite organization that require a senior reactor operator (SRO) or reactor operator (RO) license.

This will be met through the addition of new Section 6.1.3.H to the CNS Technical Specifications. The Operations Supervisor, Shift Supervisor, and Control Room Supervisor shall hold SRO licenses while Unit Operators shall hold RO licenses.

Changes 1 through 4 above were proposed by Nebraska Public Power District by their letter dated March 20, 1989. Public Notice of those changes was published in the Federal Register dated May 17, 1989 (54 FR 21309).

In addition to the above changes, Generic Letter 88-06 also specified that the following general requirement (5.) should also be added to the licensee's Technical Specifications concurrent with the removal of the organization charts:

5. Requirement to establish provision to ensure that Quality Assurance, Health Physics, and Training Staff have sufficient organizational freedom and freedom from operational pressures to effectively accomplish their organizational objectives.

The licensee's original submittal dated March 20, 1989, set forth their position that Item No. 5 above was already provided for in other company programs and documents, and did not need to be replicated in the CNS Technical Specifications. However, pursuant to discussions between the District and the NRC staff, the District has agreed to include these provisions in the CNS Technical Specifications.

**Basis for proposed no significant hazards consideration determination:** In accordance with the requirement of 10 CFR 50.92, the licensee has submitted



the following no significant hazards evaluation:

**A. Evaluation of this Amendment with Respect to 10 CFR 50.92**

The enclosed Technical Specification change is judged to involve no significant hazards based on the following:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

*Evaluation:* This proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated because the change is administrative in nature. Removal of the organization charts from the CNS Technical Specifications represents a change only in the administrative control of revisions to the District's nuclear organization. Several key organizational elements have been added to the CNS Technical Specifications. These organizational requirements have been developed in accordance with the guidance provided by Generic Letter 88-06 and capture the essential aspects of the Nuclear Power Group organization. These include the addition of Sections 6.1.2.B and 6.1.2.C which identify the positions responsible for overall plant safety in the Onsite and Offsite organizations respectively.

This proposed change does not effect any revision to the current nuclear organization or the plant configuration. No changes to the Shift Complement qualifications or personnel requirements have been proposed. Further, removal of the organizational charts does not represent a physical change to the plant, a change to any plant procedure, the institution of any test or experiment, a change in any safety analysis, or a change in organizational conduct of operations. This proposed change, therefore, does not increase the probability or consequences of an accident previously evaluated.

2. Does the proposed license amendment create the possibility for a new or different kind of accident from any accident previously evaluated?

*Evaluation:* This change is administrative in nature and therefore, does not create the possibility for a new or different kind of accident from any previously evaluated. The District is not proposing any procedural, hardware, or organizational changes with this submittal. The organizational functions important to safety will continue to be accomplished through the employment of persons competent in the appropriate areas of expertise.

3. Does the proposed amendment involve a significant reduction in the margin of safety?

*Evaluation:* This proposed change does not represent any changes in plant procedure or hardware. Since this change is administrative in nature, the margin of safety will not be reduced. This change has the overall effect of increasing organizational efficiency by facilitating organizational adaptation to changing operational needs. The provisions being added to Section 6.1 of the CNS Technical Specifications will assure the essential aspects of the operating organization will remain intact. Additionally, any subsequent organizational changes will constitute changes to the CNS USAR and

therefore require evaluation in accordance with 10 CFR 50.59.

**B. Additional Basis for Proposed No Significant Hazards Determination**

The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (51 FR 7751). The examples include: "(i) A purely administrative change..." The District feels that this proposed change falls under this example. Additionally, Generic Letter 88-06 sets forth the NRC's position that with the addition of certain administrative requirements which "...capture the essential aspects of the organizational structure..." the onsite and offsite organizational charts may be removed. Therefore, the District finds that the attached proposed change to the CNS Technical Specifications involves no significant hazards and should be approved by the NRC.

Based on the previous discussions, the licensee concluded that the proposed amendment request does not involve a significant increase in the probability or consequences of an accident previously evaluated; nor create the possibility of a new or different kind of accident from any accident previously evaluated; nor involve a significant reduction in the required margin of safety. The NRC staff has reviewed the licensee's no significant hazards considerations determination and agrees with the licensee's analysis. The staff has, therefore, made a proposed determination that the licensee's request does not involve a significant hazards consideration.

**Local Public Document Room**

location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Attorney for licensee: Mr. G.D.

Watson, Nebraska Public Power District, Post Office Box 499, Columbus, Nebraska 68601.

NRC Project Director: Frederick J. Hebbon

Niagara Mohawk Power Corporation, Docket No. 50-410, Nine Mile Point Nuclear Station, Unit No. 2, Scriba, New York

Date of amendment request: October 5, 1989

**Description of amendment request:**

Niagara Mohawk Power Corporation, holder of Facility Operating License No. NPF-69, requests that certain changes be made to the Technical Specifications (TS) set forth in Appendix A to that license. As part of the first refueling outage for the Nine Mile Point Unit 2 plant the licensee plans to completely offload the reactor core. The licensee expects this to minimize constraints otherwise imposed by operability requirements, to minimize radiation exposure and to enhance maintenance and modification activities. The

offloading and subsequent reloading is planned to be performed in a spiral fashion with only a partial set of guides to support control rods not being surrounded by fuel assemblies. The initial fuel loading followed a spiral pattern beginning adjacent to a source range monitor (SRM) and utilizing a full set (one double blade guide for each of 185 control blades) of blade guides. These plans for the initial fuel loading were reviewed and the results reported by the staff in Supplement No. 5 to the SER.

The use of a partial set, i.e., a "batch," of blade guides and the associated withdrawal of control blades after the fuel assemblies within the batch are removed during offloading and the associated insertion of control blades for control cells only when the batch of blade guides inclusive of those control cells is installed in the core involve the need to consider several safety concerns. A control cell consists of the four assemblies surrounding a control blade. The first concern is that the intermediate fuel and control blade arrays must be subcritical at all times, i.e., have adequate shutdown margin. The licensee states that multiplication factors are analyzed for the fully loaded core and that the shutdown margin of the fully loaded core is well assured by existing Technical Specifications. The specified methods for spiral loading/unloading of the core do not result in an increase in multiplication factors, nor a decrease of shutdown margin relative to that of a full core. This will require a modification to TS 3/4.9.10.2 to allow fuel loading to begin and to proceed with control blades for unloaded cells outside of the batch being loaded to be in a withdrawn condition.

The second concern regards the adequacy of neutron flux monitoring. Loading will begin by placing four fuel assemblies in a control cell adjacent to an SRM. The spiral unloading pattern will result in the last four assemblies being removed being adjacent to an SRM. This will ensure that there is at least one SRM coupled to and monitoring the fueled region whenever there is more than one cell in the core. However, for loading conditions where one fuel cell has not yet been completed or unloading conditions where less than a fuel cell remains in the core a modification must be made to certain TS requirements. These include Tables 3.3.6-1 and 2, Control Rod Block Instrumentation, and Setpoints, and TS 3/4.9.2. Note (f) in Table 3.3.6-1 is added to permit bypassing, for complete core spiral offloading and reloading activities only, the rod block signal otherwise



introduced when the SRM is downscale. The SRM may be expected to downscale when the adjacent fuel has been unloaded and a rod block would prevent the desired withdrawal of the fuel blade. Also, due to uncertainty regarding whether a signal-to-noise (S/N) ratio greater than or equal to 20 can be verified in forthcoming fuel cycles for SRM count rates between 0.7 cps and 3.0 cps, a revised lower count rate threshold of 1.3 cps with an S/N ratio greater than or equal to 5.0 has been established. The licensee states that this revision maintains the same neutron detection confidence levels at or above the revised lower limit of 1.3 cps. This change appears on TS pages 3/4 3-63, 3/4 3-89 and 3/4 9-4.

The TS 3.9.2 requirement for a continuous visual indication in the control room of 2 SRM count rates would be modified, for complete core spiral offload and reload only, to reflect the lack of expected SRM response when either (a) the core is fueled to the extent that it affects only one SRM, or (b) there are fewer than four fuel assemblies in the core.

The TS 4.9.2 requirement for an SRM count rate would be modified to provide an exception when the surrounding fuel assemblies are removed and to provide the means for establishing the initial minimum count rate.

Changes to the Bases are also proposed to reflect and explain the Technical Specification discussed above. Administrative changes consisting of revisions to the TS index pages xiv, xx to titles in TS 3/4 9-8 and 3/4 9-9 and Bases page B 3/4 9-2 were also proposed.

The third concern associated with the use of a partial set of blade guides involves whether the potential for an open vessel criticality event is changed. The licensee has previously analyzed such an event in the Updated Final Safety Analysis Report (UFSAR). The licensee has developed detailed procedural guidelines, as set forth in Section 15E of the UFSAR, to minimize the probability of such an event. The results of the licensee's analysis indicate that the probability of such an event during a complete core offloading and reloading performed consistent with the Section 15E guidelines for refueling interlocks bypassing would not be greater than such an event for a core reload using previously existing refueling interlock bypass practices.

**Basis for proposed no significant hazards consideration determination:** The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed

amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee submits that the proposed complete core offloading and reloading in a spiral pattern using a partial set of control blade guides will not involve a significant increase in the probability or consequences of an accident previously evaluated. The practice of spiral loading of the core but with a full set of blade guides has been previously evaluated as part of the initial licensing review. The licensee has proposed changes to controls on the use of the source range monitoring (SRM) instrumentation which would be required to permit full core spiral offloading and loading in the proposed manner and has analyzed the probability of the open vessel criticality event for fueling activities conducted in accordance with the provisions of UFSAR Section 15E. The results of this analysis show that the probability of the open vessel criticality event would not be increased due to the proposed changes involving full core offloading and reloading with a partial set of blade guides.

The licensee submits that the proposed changes in fueling practices will not create the possibility of a new or different kind of accident. Spiral loading practices with use of a partial blade guide set could affect the probability of a previously analyzed event and that has been analyzed as discussed above. Such reloading practices would not be expected to create new or different kinds of accidents since the principal changes associated with the use of a partial set of blade guides, which are the bypassing of refueling interlocks on rod withdrawal and the modified controls on the SRMs, are related to preventing previously specified events and would not, in and of themselves, introduce new accident scenarios.

The licensee submits that the proposed changes will not involve a significant reduction in a margin of safety. In support of this position the licensee provides the following statement:

The proposed amendment allows SRM readings to go below the minimum required count rate during the offload process, and also allows loading of four fuel assemblies

before reaching the minimum required count rate. Since reactivity is continuously removed from the core during fuel offload, the neutron flux will continuously decrease. Since there will be no reactivity additions, a lower number of counts will not present a hazard. For core reload, analysis has shown that the core will remain subcritical with four assemblies loaded, even with all control rods withdrawn. Thus, the margin of safety provided by the SRMs has not been reduced.

The staff has reviewed the licensee's application and supporting information. On the basis of the above discussion, the staff proposes to determine that these proposed changes involve no significant hazards consideration.

The changes in format and to include revised TS section titles in the table of contents are administrative in nature. The Commission has provided guidance for the application of criteria for no significant hazards consideration determination by providing examples of amendments that are considered not likely to involve significant hazards consideration (51 FR 7751). These examples include: Example (i) "A purely administrative change to technical specification: for example, a change to achieve consistency throughout the technical specifications, corrections of an error, or a change in nomenclature." The proposed changes, as discussed above, are examples of such administrative changes. Since these proposed changes are encompassed by an example for which no significant hazard exists, the staff has made a proposed determination that they involve no significant hazards consideration.

**Local Public Document Room location:** Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

**Attorney for licensee:** Troy B. Conner, Jr., Esquire, Conner & Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, DC 20006.

**NRC Project Director:** Robert A. Capra

**Northern States Power Company,** Docket No. 50-263, Monticello Nuclear Generating Plant, Wright County, Minnesota

**Date of amendment request:** December 18, 1989

**Description of amendment request:** The proposed amendment would revise the Technical Specifications, Section 6.0 "Administrative Controls" pertaining to shift manning to permit the Shift Technical Advisor (STA) function to be performed by one of the two required Senior Reactor Operators (SRO's). This action would eliminate the requirement



for a dedicated STA to be on-site when one of the shift SROs is qualified as an STA.

*Basis for proposed no significant hazards consideration determination:* 10 CFR 50.92 states that a proposed amendment does not involve a significant hazards consideration if it does not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

In accordance with the requirements of 10 CFR 50.91(a), the licensee has provided an analysis, using the standards of 10 CFR 50.92, of the issue of no significant hazards consideration. The licensee's analysis states that the proposed change does not affect the physical configuration of the plant or how it is operated. The purpose of the STA position is to provide qualified technical support to assist the operating staff in the event of off-normal plant behavior. The qualifications of the STA position have been incorporated into the requirements for the combined Licensed Senior Operator/Shift Technical Advisor (LSO/STA) position; the result being that the combined LSO/STA position will be able to provide the same qualified technical support to assist the operating staff in the event of off-normal plant behavior. The number of people making up the new minimum shift crew composition would decrease by one. The total number of people making up the new minimum shift crew composition is acceptable since the STA position was previously added to provide engineering expertise on shift and not because of a deficiency in the number of people making up the shift crew. The level of expertise on shift will not be diminished as a result of this change.

Based on the above, the proposed change meets the criteria of 10 CFR 50.92. The application also notes that the proposed change is administrative in nature and is consistent with the Commission's guidance provided in Generic Letter 88-04, "Policy Statement on Engineering Expertise On Shift." The staff notes that the analytical assumptions related to operator actions used in the analyses of accidents previously evaluated for Monticello would not be affected by the proposed amendment. The staff has reviewed the licensee's analysis and made a proposed determination that no significant hazards consideration exist.

*Local Public Document Room location:* Minneapolis Public Library,

Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

*Attorney for licensee:* Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

*NRC Project Director:* John O. Thoma, Acting.

**Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut**

*Date of amendment request:* October 20, 1989

*Description of amendment request:* The proposed amendment would change Millstone Unit 3 Technical Specifications (TS) Table 4.4-5, "Reactor Vessel Material Surveillance Program - Withdrawal Schedule" to provide a revised in-vessel material capsule withdrawal program and revised capsule lead factors.

*Basis for proposed no significant hazards consideration determination:* The Reactor Coolant System pressure/temperature limit curves for plant heatup, cooldown, and inservice leak and hydrostatic pressure testing operations are provided in the Technical Specifications. These curves define limits to ensure the prevention of nonductile failures of materials incorporated within the reactor coolant system (RCS). The allowable pressure/temperature for specified heatup and cooldown rates are calculated in accordance with Appendix G of Section III of the ASME Boiler and Pressure Vessel Code and 10 CFR Part 50, Appendix G. The heatup and cooldown limit curves are calculated using the most limiting value of the  $RT_{NDT}$  (reference nil-ductility transition temperature) inherent to the reactor vessel material. The initial value of  $RT_{NDT}$  is determined from material tests made at the time of the vessel fabrication. During the service life of the reactor vessel, the  $RT_{NDT}$  increases above the initial value because of neutron irradiation. The amount of change ( $\Delta RT_{NDT}$ ) depends upon the neutron fluence and material chemical composition. The transition temperature shift is determined from fluence measurements, calculations, and trend curves based on tests of irradiated specimens that predict the effects of neutron irradiation. The irradiated specimens are actual (or archive) reactor vessel material specimens and are positioned around the reactor vessel to provide surveillance of the irradiation levels to which the reactor vessel is subject. The specimens are maintained in an inert environment within a

corrosion-resistant capsule to prevent deterioration of the surface of the specimens during radiation exposure.

Associated with each surveillance capsule location is a lead factor, the ratio of the instantaneous neutron flux density at the location of the specimens in a surveillance capsule to the maximum calculated neutron flux density at the inside surface of the reactor vessel wall. The lead factor is thus used to extrapolate the surveillance measurements from the specimens to the reactor vessel wall, thereby the material property changes of the reactor vessel are monitored throughout its life. The in-vessel capsule irradiation program is described in Section 5.3.1.6 of the Millstone Unit 3 Final Safety Analysis Report. Each surveillance capsule is also subject to a withdrawal schedule, per TS 4.4.9.1.2, as specified in TS Table 4.4-5. The specimens within the withdrawn capsule are subjected to various inspections and tests to determine the  $\Delta RT_{NDT}$  and any needed changes in the heat-up and cooldown limit curves. The number of capsules to be withdrawn over the life of the reactor pressure vessel is required by Appendix H to 10 CFR Part 50 to meet the requirements of ASTM E185.

The licensee has proposed a change to the number of surveillance capsules to be withdrawn (and the associated withdrawal schedule) and the lead factors as specified in TS Table 4.4-5. The proposed changes result from analysis of the first capsule which was withdrawn during the first refueling outage. At the present time, TS Table 4.4-5 describes a capsule program containing four capsules. The first capsules is to be withdrawn during the first refueling outage and subsequent capsules are to be withdrawn at 5, 9 and 15 effective full power years (EFPY). The requirements of ASTM E185 allow a program to contain only three capsules if the end-of-life (EOL)  $RT_{NDT}$  is less than 100° F. Based upon the evaluation of the first capsule to be removed, the licensee has projected that the EOL  $RT_{NDT}$  will be less than 100° F and has proposed a change to TS Table 4.4-5. The revised capsule program would have three capsules. The first capsule would be withdrawn during the first refueling outage (already accomplished) and subsequent capsules at 9 and 16 EFPY. Changes to the TS Bases have also been proposed.

Title 10 CFR Part 50, Section 50.92 contains standards for determining whether a proposed license amendment involves significant hazards considerations. In this regard, the proposed changes to the TS do not:



1. Involve a significant increase in the probability or consequences of an accident previously analyzed. The use of data obtained from the in-vessel capsule irradiation program is not credited in any accident analyzed for Millstone Unit 3.

2. Create the possibility of a new or different kind of accident from any previously analyzed. The NRC does not require licensees to analyze the potential impact associated with failure of the reactor pressure vessel (RPV) in a non-ductile manner. The inherent conservatism associated with reactor pressure vessel design, fabrication and operation assure that failure of the RPV will not occur. The proposed changes to TS Table 4.4-5 maintain these conservatisms especially with regard to the in-vessel capsule withdrawal program defined by ASTM E185.

3. Involve a significant reduction in a margin of safety. Since the proposed changes also do not affect the consequences of any accident previously analyzed, there is no reduction in the margin of safety.

Accordingly, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

*Local Public Document Room location:* Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

*Attorney for licensee:* Gerald Garfield, Esquire, Day, Berry & Howard, City Place, Hartford, Connecticut 06103-3499.

*NRC Project Director:* John F. Stolz  
Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

*Date of amendment request:*  
November 2, 1989

*Description of amendment request:*  
The proposed amendment would modify Technical Specification (TS) 3.6.4.1, "Hydrogen Monitors," and TS 3.3.3.6, "Accident Monitoring Instrumentation," to eliminate inconsistencies concerning Limiting Conditions for Operations (LCOs) associated with hydrogen monitors.

*Basis for proposed no significant hazards consideration determination:*  
The operability of the combustible gas control equipment and systems required for the detection and control of hydrogen gas ensures that this equipment will be available to maintain the hydrogen concentration within containment below its flammable limit during post-loss-of-coolant-accident (LOCA) conditions. The hydrogen monitors provide information used to determine the need to start the hydrogen

recombiners or initiate containment purge. At the present time, TS 3.6.4.1 and TS 3.3.3.6 contain conflicting requirements concerning remedial actions to be taken when one or more hydrogen monitors become inoperable, as follows:

- TS 3.3.3.6 allows reactor operation up to 7 days with one hydrogen monitor inoperable and up to 48 hours with two hydrogen monitors inoperable. If the inoperable monitors cannot be returned to service, the plant must be in Hot Standby within 6 hours and Hot Shutdown within the following 6 hours. Operability of the hydrogen monitors is required in Modes 1, 2 and 3. Startup of the facility with inoperable hydrogen monitors is permitted (the provisions of TS 3.0.4 are not applicable.)
- TS 3.6.4.1 allows reactors operation up to 30 days with one hydrogen monitor inoperable and up to 72 hours with two hydrogen monitors inoperable. If the inoperable monitors cannot be returned to service, the plant must be in Hot Standby within 6 hours. Operability of the hydrogen monitors is required in Modes 1 and 2. Startup of the facility with inoperable hydrogen monitors is not permitted (the provisions of TS 3.0.4 are applicable.)

The licensee has proposed that TS 3.6.4.1 and TS 3.3.3.6 be modified to eliminate the conflicting requirements concerning inoperable hydrogen monitors. The requirements of TS 3.3.3.6 would be changed to increase the allowable out-of-service time from 7 days to 30 days for one hydrogen monitor and from 48 hours to 72 hours for inoperability of two hydrogen monitors. The above changes to TS 3.3.3.6 would provide consistency with the requirements of TS 3.6.4.1. The proposed change to TS 3.3.3.6 also includes a reformatting of the associated Action Statements to segregate the LCOs for the hydrogen monitor. The requirements of TS 3.6.4.1 would be changed as follows to provide consistency with TS 3.3.3.6:

- Increase the range of applicable modes from Modes 1 and 2 to Modes 1, 2 and 3.
- A statement would be added that the provisions of TS 3.0.4 are not applicable.
- The remedial action required for the inoperability of one or more hydrogen monitors, in the event that the monitors cannot be restored would be extended from "...at least Hot Standby within the next 6 hours" to also include "...and in at least Hot Shutdown within the following 6 hours."

Title 10, CFR 50.92, "Issuance of Amendment," contains standards for addressing the existence of no significance hazards considerations with regard to issuance of license amendments. The licensee's November 2, 1989 application addresses the standards of 10 CFR 50.92 and concludes

that the proposed changes to TS 3.3.3.6 and TS 3.6.4.1 would not involve a significant hazards consideration because the changes would not:

1. Involve a significant increase in the probability or consequences of an accident previously analyzed. The proposed changes to extend the LCOs for an inoperable hydrogen monitor from 7 days to 30 days and for two inoperable monitors from 48 hours to 72 hours do not increase the consequences of a design basis accident (DBA) LOCA. Initiation of one hydrogen recombiner as late as 24 hours following a DBA is sufficient to maintain the containment hydrogen concentration below 4 volume percent. In addition, other air sampling systems would be available to determine the [hydrogen] concentration. Since adequate time exists for the operator to assess the situation, obtain alternative [hydrogen] samples and initiate the hydrogen recombiners, the consequences of LOCAs will not be increased.

Adding the provision that Specification 3.0.4 is not applicable allows the plant to change operational modes without the hydrogen monitors operable. However, since the LCOs remain valid, the added risk is negligibly small and therefore does not significantly increase the consequences of an accident. Also, mode 3 applicability and a requirement to be in hot shutdown have been added for consistency and do not impact the consequences of an accident.

2. Create the possibility of a new or different kind of accident from any previously analyzed accident. There are no failure modes associated with these changes. Since there are no changes in the way the plant is operated or in the operation of the equipment credited in the DBA, the potential for an unanalyzed accident is not created.

3. Involve a significant reduction in the margin of safety. The intent of the Technical Specification is to ensure that the operator will be able to determine the hydrogen concentration and start the recombiner or containment purge before reaching 4 volume percent. Since the operator has at least 24 hours before a recombiner must be initiated and other sampling systems will be available, the intent of the Technical Specification is met. For this reason, the changes will not impact any protective boundary. The changes do not affect the consequences of any accident previously analyzed. Therefore, there is no significant reduction in the margin of safety.

We have reviewed and concur with the licensee's significant hazards consideration evaluation associated with the November 2, 1989 application.

Based upon the above, the NRC staff proposes to determine that the proposed changes to TS 3.3.3.6 and TS 3.6.4.1 involve no significant hazards considerations.

*Local Public Document Room location:* Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.



*Attorney for licensee:* Gerald Garfield, Esquire, Day, Berry & Howard, City Place, Hartford, Connecticut 06103-3499.

*NRC Project Director:* John F. Stolz

Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

*Date of amendment request:*  
December 1, 1989

*Description of amendment request:*  
The proposed amendment would modify Technical Specifications (TS) 4.6.4.2b.4, "Electric Hydrogen Recombiners," to provide variable acceptance criteria for flow testing.

*Basis for proposed no significant hazards consideration determination:*  
The hydrogen recombiner system is designed to maintain the hydrogen concentration in the containment below 4 volume percent following a design basis accident (DBA). To ensure operability of the system in the event of a single failure of any component, the system is arranged in two redundant 100 percent capacity trains. The parameters presented in Regulatory Guide 1.7 are used in the analysis of hydrogen generation following a DBA. The analysis of hydrogen generation following a DBA and the capability of the DBA hydrogen recombiners or the backup purge system, to maintain a hydrogen concentration below 4 percent volume is described in the Millstone Unit No. 3 Final Safety Analysis Report (FSAR) Section 6.2.5.

Technical Specification 4.6.4.2b.4 requires that the licensee verify, every 18 months, that the electric hydrogen recombiners demonstrate a flow rate of at least 50 scfm. Although hydrogen recombiner flow rate is a function of containment pressure, the existing TS 4.6.4.2b.4 does not specify a containment pressure for performance of the hydrogen recombiner flow test.

During a recent review of hydrogen recombiner surveillance test data and the original calculation for post-DBA hydrogen generation in containment, the licensee identified an inconsistency. Specifically, the original analysis assumed that 50 scfm of containment air would flow thorough the system while the containment pressure was at 9 psia in post-DBA conditions. This assumed flow rate is also greater than tested flow rates which have been as low as 42 scfm when containment is between 9 and 10 psia. Therefore, the licensee performed a new calculation and determined the minimum acceptable flow rate through hydrogen recombiners to be 40.5 scfm. This flow rate will still ensure containment hydrogen concentration remains below 4 volume percent during

the accident if the hydrogen recombiners are started within 24 hours of a DBA when the hydrogen concentration of the containment atmosphere is at or below 1.8 volume percent. As stated in FSAR Section 6.2.5, the hydrogen recombiners would be started well before 1.8 volume percent hydrogen is detected in the containment.

The proposed change to TS 4.6.4.2b.4 would replace the 50 scfm acceptance criteria for the hydrogen recombiner flow test with an acceptance criteria that is a function of containment pressure. The proposed TS provides the flexibility to allow the licensee to test the hydrogen recombiners during plant operation. The proposed variable acceptance criteria range almost linearly from approximately 40 scfm at a containment pressure of 8.5 psia to approximately 80 scfm at a containment pressure of 15.5 psia. The lowest flow acceptance criterion, however, would be limited to approximately 51 scfm since the lowest containment partial pressure is limited to 8.9 psia by TS 3.6.1.4.

The licensee has reviewed the proposed changes in accordance with the standards for "significant hazards considerations" in 10 CFR 50.92 with regard to their December 1, 1989 application. The licensee concluded, and the staff agrees, that the changes do not involve a significant hazards consideration in that these changes would not:

1. Involve a significant increase in the probability or consequences of an accident previously analyzed. The proposed surveillance requirement will ensure a performance level of hydrogen recombiners which meets the requirement of the design basis analysis. The design basis analysis shows that containment hydrogen concentration remains below 4 percent during a LOCA if the recombiners are started within 24 hours of the accident. The appropriate plant procedures have been modified to ensure that the hydrogen recombiners are placed in service within 24 hours of a LOCA. Therefore, it is concluded that the LOCA and its consequences as analyzed remain valid. Since the proposed change modifies only the flow rate requirement for the hydrogen recombiners, the probability of a LOCA or any other accident is not affected.

2. Create the possibility of a new or different kind of accident from any previously analyzed. The proposed change does not impact the plant response to a LOCA or any other accident. Since there are no changes in the way the plant is operated, the potential for an unanalyzed accident is not created. No new failure modes are introduced.

3. Involve a significant reduction in margin of safety. The proposed change does not increase the consequences of any accidents. Also, none of the protective boundaries are adversely affected. The performance level of hydrogen recombiners assured by the

proposed surveillance requirements along with the appropriate plant procedure changes maintain the margin of safety as defined in the existing and proposed Technical Specifications.

Based upon the above, the NRC staff proposes to determine that the proposed changes to the TS, identified in the licensee's December 1, 1989 application, involve no significant hazards considerations.

*Local Public Document Room location:* Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

*Attorney for licensee:* Gerald Garfield, Esquire, Day, Berry & Howard, City Place, Hartford, Connecticut 06103-3499.

*NRC Project Director:* John F. Stolz

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

*Dates of amendment request:* May 15, July 3, September 15, and November 30, 1989 (Reference LAR 89-06).

*Description of amendment request:*  
The proposed amendments would revise the combined Technical Specifications (TS) for the Diablo Canyon Power Plant (DCPP) Unit Nos. 1 and 2 to allow removal of the Boron Injection Tank (BIT) from Units 1 and 2 at the end of the next cycle of operation. The proposed BIT removal is consistent with the guidance provided in NRC Generic Letter 85-16, which concluded that there are inherent safety risks associated with the use of high concentrations of boron and that improved analysis methods are available to allow BIT removal. Specific TS changes that would become effective at the next cycle include: (1) Deletion of TS 3.5.4.1, "Boron Injection Tank", TS 3.5.4.2, "Heat Tracing", and the associated Bases, to allow for bypassing or removing the BIT and associated piping and components; (2) Revision of TS Table 3.3-5, "Engineered Safety Features Response Times", to make the safety injection response times consistent with BIT removal; and (3) Revision of TS Table 3.6-1, "Containment Isolation Valves," and TS Table 3.8-1, "Motor-Operated Valves Thermal Overload Protection and Bypass Devices," to reflect the change in function of certain valves from "BIT inlet" and "BIT outlet" valves to "charging injection" valves.

This request was previously noticed in the Federal Register on May 31, 1989 at 54 FR 23320. This replaces the previous notice.

*Basis for proposed no significant hazards consideration determination:*  
The Commission has provided



standards for determining whether a no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment will not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee, in its submittal of May 15, 1989, evaluated the proposed change against the significant hazards criteria of 10 CFR 50.92 and against the Commission guidance concerning application of this standard. Based on the evaluation given below, the licensee has concluded that the proposed change does not involve a significant hazards consideration. The licensee's evaluation is as follows:

a. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

Analysis was performed for an "Accidental Depressurization of the Main Steam System" (FSAR Update Section 15.2.13) and "Major Secondary Steam System Pipe Rupture" (FSAR Update Section 15.4.2) with the BIT removed. For both cases after the reactor trip, the analysis determined that criticality is reattained due to plant cooldown, but the DNB design basis is met and no fuel failure will occur. Further analysis was performed to determine the impact of BIT removal on the containment mass and energy release and containment pressure and temperature response. It was shown that the containment pressure remained below its 47 psig design limit. The containment temperature response increased from the presently reported peak temperature value of 339 degrees F to 345 degrees F. PG&E has determined that the components inside containment critical to safety are not adversely affected by this small increase in temperature. Therefore, analysis results determined that the containment pressure transient response for the most limiting case assured pressure below design and the aggregate temperature response would not affect the current equipment qualification inside containment. Finally, analysis was performed assuming removal of the BIT to determine the mass and energy release due to steamline breaks outside containment assuming superheated steam release. Analysis results demonstrate that for the worst case main steamline break outside containment, all safety-related equipment required to mitigate the steamline break accident outside containment and structural components that would be both subject to the new superheat accident environment and necessary to mitigate the consequences of an accident would either function as designed or would be requalified or replaced.

The results of the safety injection response time evaluation demonstrated that delivery of

borated water to the RCS meets all accident acceptance criteria.

The results of the above analyses demonstrate that consequences of previously evaluated events are not significantly increased. The results of the above analyses further demonstrate an increase in the probability of a return to criticality during a Condition II event (depressurization of the main steam system). However, there is no increase in the probability of fuel failure and releases remain within the guideline values of 10 CFR 20. Therefore, the equipment inside and outside containment necessary to mitigate the consequences of an accident would function as designed after modification and releases during depressurization of the main steam system remain within the guideline values of 10 CFR 20.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

b. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

As discussed above, environmentally qualified equipment to provide emergency system functions inside and outside containment during a steamline break has been evaluated for the new environment that could result during accidents with the BIT removed. The analysis results demonstrated that this equipment will either still respond during accidents or will be requalified or replaced.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

c. Does the change involve a significant reduction in a margin of safety?

For both the "Accidental Depressurization of the Main Steam System" (FSAR Update Section 15.2.13) and "Major Secondary Steam System Pipe Rupture" (FSAR Update Section 15.4.2), the Westinghouse analysis shows that the DNB design basis is met and no core damage results. Therefore, for the depressurization of the main steam system, release associated with this accident will remain within the guideline values set forth in 10 CFR 20 and for the major steam line break the radiation releases are within the guideline values set by 10 CFR 100. The safety injection response times continue to mitigate the consequences of LOCA and non-LOCA accidents with sufficient safety margin.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the proposed changes and the licensee's no significant hazards consideration determination and finds them acceptable. Therefore, the staff proposes to determine that these amendments do not involve a significant hazards consideration.

**Local Public Document Room location:** California Polytechnic State University Library, Government

Documents and Maps Department, San Luis Obispo, California 93407.

**Attorneys for licensee:** Richard R. Locke, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120 and Bruce Norton, Esq., c/o Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120.

**NRC Project Director:** George W. Knighton

**Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California**

**Date of amendment request:** December 20, 1989 (Reference LAR 89-15)

**Description of amendment request:** The proposed amendments would revise the combined Technical Specifications (TS) for the Diablo Canyon Power Plant (DCPP) Unit Nos. 1 and 2 to increase the alarm/trip setpoint of the spent fuel pool (SFP) storage area radiation monitor (RM-58). The amendments would revise TS Table 3.3-6, "Radiation Monitoring Instrumentation for Plant Operations," to increase the alarm/trip setpoint of RM-58 from 15 to 75 mR/hr. The proposed setpoint change is needed because the current 15 mR/hr radiation monitor setpoint results in unnecessary safety system challenges during offload of the reactor core to the SFP.

**Basis for proposed no significant hazards consideration determination:** The Commission has provided standards for determining whether a no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment will not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee, in its submittal of December 20, 1989, evaluated the proposed change against the significant hazards criteria of 10 CFR 50.92 and against the Commission guidance concerning application of this standard. Based on the evaluation given below, the licensee has concluded that the proposed change does not involve a significant hazards consideration. The licensee's evaluation is as follows:

a. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?



The proposed change to the setpoint of RM-58 would not affect the probability of a fuel handling accident in the fuel handling area since the monitor high alarm setpoint is independent of fuel handling activities. The consequences of a fuel handling accident would not change with implementation of the proposed higher RM-58 setpoint, since 75 mR/hr is less than the radiation level that an FSAR Update Expected Case fuel handling accident would produce. The proposed high alarm setpoint would provide identical mitigating action for the FSAR Update expected case fuel handling accident, while reducing the number of spurious ESF actuations.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

b. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change in the RM-58 setpoint does not require any change to the fuel handling procedures, equipment, or necessitate a physical alteration to the plant.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

c. Does the change involve a significant reduction in a margin of safety?

The proposed change in the RM-58 setpoint from 15 to 75 mR/hr does not change the projected offsite dose rate at the site boundary. The increased high alarm setpoint is based on the airborne radioactivity concentration during a fuel handling accident and allows such an accident to be adequately detected.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC Staff has reviewed the proposed changes and the licensee's no significant hazards consideration determination and finds them acceptable. Therefore, the Staff proposes to determine that these changes do not involve significant hazards consideration.

*Local Public Document Room location:* California Polytechnic State University Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

*Attorneys for licensee:* Richard R. Locke, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120 and Bruce Norton, Esq., c/o Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120.

*NRC Project Director:* George W. Knighton

Portland General Electric Company et al., Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

*Date of amendment request:*  
November 13, 1989

*Description of amendment request:*  
The following change is proposed to the

Trojan Technical Specification (TTS) 3/4.7, "Component Cooling Water System," and associated bases. The operability and surveillance requirements, and the bases, for the Component Cooling Water (CCW) System will be revised from a "split-train" configuration back to the original CCW System technical specifications, in which the safety-related trains of CCW were cross connected with one CCW pump serving both safety-related flow paths and the common non-safety-related flowpath.

*Basis for proposed no significant hazards consideration determination:* 10 CFR 50.92 states that a proposed amendment will not involve a significant hazards consideration if the proposed amendment does not: (i) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (ii) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (iii) Involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed amendment against the standards of 10 CFR 50.92, and has determined the following:

1. The changes proposed in this LCA do not significantly increase the probability or consequences of an accident previously evaluated.

The current Technical Specifications require the CCW System to be operated in a split-train configuration with the train isolation valves for one train in the closed position. The purpose of operation in the split-train configuration is to preclude a loss of all CCW due to a seismically induced full-area rupture in the Seismic Category II portion of the system. Operation with the one train isolated requires that both train's CCW pumps be operating to provide cooling flows to the reactor coolant pumps and other train separated equipment required during normal operation. This equipment includes the containment air coolers, the letdown heat exchanger, and the seal water heat exchanger.

The proposed changes to the CCW System Technical Specifications will allow the system to be operated in the originally analyzed and licensed configuration. The original configuration allows the safety-related trains of CCW to be cross connected with one CCW pump serving both safety-related flow paths and the common non-safety-related flowpath.

The change to the original operating configuration will not affect the previously analyzed accidents. The purpose of operating the CCW System in a split-train configuration was to preclude the loss of all CCW due to a rupture in the Seismic Category II portion of the system. Seismic upgrade of the Seismic Category II piping and components during the 1989 Trojan refueling outage eliminates the requirement to postulate the seismically induced full-area rupture.

The proposed changes will also allow single pump operation reducing unnecessary wear and tear on the redundant train's pump, and will return the system to fully redundant status by eliminating consequential failures associated with the postulated pipe rupture.

In summary, the proposed changes provide for returning the system to its originally analyzed and licensed operating configuration, and fully redundant status. The CCW System will continue to meet its design basis function of supplying cooling water to the required Plant components during normal Plant operation and postulated design basis accidents. Therefore, the probability or consequences of previously evaluated accidents are not increased.

2. The changes proposed in the LCA do not create the possibility of a new or different kind of accident from any previously evaluated.

CCW System operation in a split-train configuration, and maintaining the spare CCW pump operable, as required by the current Technical Specifications was necessary to protect the system and Plant from the consequences of a full-area rupture in the Seismic Category II system piping. Seismic upgrade of the Seismic Category II portion of the CCW System completed during the 1989 refueling outage precludes the need for the protection afforded by split-train operation as the postulated full-area rupture will no longer be a credible event.

The proposed changes to the Technical Specifications will allow the CCW System to be operated as intended in the originally analyzed and licensed configuration. The design basis function of the CCW System will remain unchanged and there will be a greater assurance of CCW availability as a result of the seismic upgrade.

In summary, the proposed changes do not affect the system design basis and allow system operation to return to its originally analyzed and licensed configuration. The seismic upgrade will provide greater assurance of CCW availability following a seismic event. Therefore, the changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. This proposed LCA does not involve a significant reduction in a margin of safety.

Changing the operation of the CCW System from the current split-train operating configuration to the originally analyzed and licensed configuration does not impact the design basis or function of the system or its individual components. No margins of safety are reduced.

The staff has reviewed the licensee's no significant hazards analysis and concurs with the licensee's conclusions. As such, the staff proposes to determine that the requested changes do not involve a significant hazards consideration.

*Local Public Document Room location:* Portland State University Library, 731 S.W. Harrison Street, Portland, Oregon 97207.

*Attorney for licensee:* Leonard A. Girard, Esq., Portland General Electric



Company, 121 S.W. Salmon Street, Portland, Oregon 97204.

*NRC Project Director:* Charles M. Trammell, Acting

**Portland General Electric Company et al., Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon**

*Date of amendment request:*  
November 30, 1989

*Description of amendment request:*  
The proposed changes to Trojan Technical Specification (TTS) 3/4.4.5, "Steam Generators", and the associated bases will allow sleeving of steam generator tubes. The TTS now requires that all defective steam generator tubes be plugged. The licensee states that plugging tubes reduces reactor coolant flow and is less desirable in some cases than a repair technique that does not remove the tubes from service. The proposed changes will allow sleeving of steam generator tubes as a corrective or preventive maintenance action.

*Basis for proposed no significant hazards consideration determination:* 10 CFR 50.92 states that a proposed amendment will not involve a significant hazards consideration if the proposed amendment does not: (i) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (ii) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (iii) Involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed amendment against the standards of 10 CFR 50.92, and has determined the following:

1. Does the proposed license change involve a significant increase in the probability or consequences of an accident previously evaluated?

Some steam generator tubes have been found to have a varying amount of wall degradation. When the degradation is extensive, the normal practice of plugging defective tubes may reduce the effectiveness of the steam generators and eventually reduce the performance of the nuclear steam supply system. An alternative to plugging tubes is installing a sleeve as a new pressure boundary inside the original tubes to bridge the degraded area, thus permitting the tubes to remain in service. The integrity of the steam generator tubes will be equivalent to that of an original tube. In addition, the steam generator will remain capable of performing its required heat transfer function. Therefore, the proposed change does not involve an increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed license change create the possibility of a new or different kind of accident from any accident previously evaluated?

As discussed above, both the structural integrity and the heat transfer capability of the steam generators will not be significantly

affected by the installation of sleeves. In addition, the tube sleeves do not interact with any of the other plant systems. Thus, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed license change involve a significant reduction in a margin of safety?

The heat transfer capabilities of the steam generators will be improved by utilizing the sleeving process rather than the currently required plugging, since the reactor coolant system flow will not be reduced as much. Furthermore, the structural integrity of the steam generators will not be degraded. Therefore, the proposed change does not involve a reduction in a margin of safety.

The staff has reviewed the licensee's no significant hazards analysis and concurs with the licensee's conclusions. As such, the staff proposes to determine that the requested changes do not involve a significant hazards consideration.

*Local Public Document Room location:* Portland State University Library, 731 S.W. Harrison Street, Portland, Oregon 97207.

*Attorney for licensee:* Leonard A. Girard, Esq., Portland General Electric Company, 121 S.W. Salmon Street, Portland, Oregon 97204.

*NRC Project Director:* Charles M. Trammell, Acting

**Public Service Electric & Gas Company, Docket Nos. 50-272 and 50-311, Salem Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey**

*Date of amendment request:*  
September 13, 1989

*Description of amendment request:*  
The proposed amendments would revise the Surveillance Sections 4.4.5.2 through 4.4.5.5 of the Salem Unit 1 technical specifications to be consistent with the Salem Unit 2 technical specifications and the Westinghouse Standard Technical Specifications. The changes would:

1. Add a new section 4.4.5.2.b.3 as follows:

A tube inspection (pursuant to Specification 4.4.5.4.a.8) shall be performed on each selected tube. If any selected tube does not permit the passage of the eddy current probe for a tube inspection, this shall be recorded and an adjacent tube shall be selected and subjected to a tube inspection.

2. Replace Section 4.4.5.2.c with:

The tubes selected as the second and third samples (if required by Table 4.4-2) during each inservice inspection may be subjected to a partial tube inspection provided:

1. The tubes selected for these samples include the tubes from those areas of the tube sheet array where

tubes with imperfections were previously found.

2. The inspections include those portions of the tubes where imperfections were previously found.

3. Replace Section 4.4.5.3.b with:

If the results of the inservice inspection of a steam generator conducted in accordance with Table 4.4-2 at 40 month intervals fall in Category C-3, the inspection frequency shall be increased to at least once per 20 months. The increase in inspection frequency shall apply until the subsequent inspections satisfy the criteria of Specification 4.4.5.3.a; the interval may then be extended to a maximum of once per 40 months.

4. Change 4.4.5.4.a.5 to read:

*Defect* means an imperfection of such severity that it exceeds the plugging limit. A tube containing a defect is defective.

5. Change 4.4.5.4.a.6 to read:

*Plugging Limit* means the imperfection depth at or beyond which the tube shall be removed from service and is equal to 40% of the nominal tube wall thickness.

6. Add a new section 4.4.5.4.a.9 as follows:

*Preservice Inspection* means an inspection of the full length of each tube in each steam generator performed by eddy current techniques prior to service establish a baseline condition of the tubing. This inspection shall be performed after the field hydrostatic test and prior to initial Power Operation using the equipment and techniques expected to be used during subsequent inservice inspections.

7. One minor administrative change to section 4.4.5.5.b would be made.

For Salem Unit 2 the change to Surveillance section 4.4.6.5.b would clarify that the results of the steam generator tube inspection would be included in the Annual Operating Report.

*Basis for proposed no significant hazards consideration determination:*  
The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.



The licensee has analyzed the proposed amendment to determine if a significant hazards consideration exists:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes are being requested to achieve consistency between the Salem units and to agree with the Westinghouse Standard Technical Specifications which have been previously reviewed and approved by the staff. The proposed changes clarify the Unit 1 requirements for steam generator tube inspections and make them consistent with current requirements. The changes do not significantly reduce the frequency or thoroughness of inspections. Therefore, the proposed changes do not increase the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The changes clarify steam generator inspection requirements. Steam generator accidents have been previously reviewed and evaluated. Clarifying the inspection requirements does not make a physical change to the plant and therefore will not create a new or different kind of accident from any previously evaluated.

3. Does the change involve a significant reduction in a margin of safety?

Since the proposed changes clarify existing requirements, do not significantly reduce any surveillance requirements, do not make physical changes to the plant, and are consistent with previously reviewed and approved Standard Technical Specifications and Unit 2 Technical Specifications, the proposed changes do not significantly reduce the margin of safety as defined in the Bases of the Technical Specifications.

The staff has reviewed the licensee's submittal and significant hazards analysis and concurs with the licensee's determination that the proposed amendment does not involve a significant hazards consideration. Therefore, the staff proposes to determine that the proposed amendment involves no significant hazards consideration.

*Local Public Document Room location:* Salem Free Public library, 112 West Broadway, Salem, New Jersey 08079

*Attorney for licensee:* Mark J. Wetterhahn, Esquire, Conner and Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, DC 20006

*NRC Project Director:* Walter R. Butler

Southern California Edison Company, et al., Docket No. 50-361, San Onofre Nuclear Generating Station, Unit 2, San Diego County, California

*Date of amendment request:* January 3, 1990

*Description of amendment request:* The amendment would revise Technical

Specification 3/4.7.6, "Snubbers". The proposed change would, on a one time basis, defer reduced snubbers visual inspection interval (124 days 27 25%), and extend the maximum inspection period for inaccessible snubbers from 18 months 27 25% to 20 months 27 25%.

*Basis for proposed no significant hazards consideration determination:*

As required by 10 CFR 50.91(a), the licensee has provided its analysis about the issue of no significant hazards consideration which is quoted below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The visual inspection failures that the reduced surveillance interval was based on were all due to the same snap ring problem, which has been corrected for inaccessible type 2 snubbers subject to similar conditions and all inaccessible type 1 snubbers in the Unit. Therefore, a reduced surveillance interval is not required to maintain a high degree of confidence, and waiving the shortened interval will not introduce a significant increase in the probability of a snubber failure.

Increasing the existing 18 month limit to 20 months introduces a 2 month extension to the interval. SCE's overall visual inspection history was a very low failure rate of 0.1% ([approximately] 0.02%/year average). Based on this history and the above conclusion that no significant change to the failure rate is introduced, it may be concluded that an additional two month extension will not result in a significant increase in the probability of a snubber failure. Therefore, this proposed change will not result in a significant increase in the probability or consequences of a previously evaluated accident.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any previously evaluated?

Response: No.

The proposed Technical Specification change does not change the number, type, design function or remaining service life of snubbers in the unit. It affects only the frequency of snubber visual inspection. The proposed change does not alter the configuration of the facility or its operation. Therefore, the proposed change does not create the possibility of a new or different kind of accident.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

Response: No.

As discussed in the response to criteria 1 above, the proposed change does increase the period of snubber visual inspection on a one time basis, which may slightly reduce the confidence in snubber operability at the end of the inspection interval and the associated margin of safety. However, past operating experience indicates that SCE's snubber maintenance program is more than adequate

in minimizing snubber failures and responding appropriately to those failures that do occur. The chance of a snubber failure occurring during the increased visual inspection time interval is very small. Therefore, the proposed change does not involve a significant reduction in margin of safety.

The NRC staff has reviewed this analysis and, based on that review, it appears that the three criteria are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* General library, University of California, P. O. Box 19557, Irvine, California 92713.

*Attorney for licensee:* Charles R. Kocher, Assistant General Counsel, and James Beoletto, Esquire, Southern California Edison Company, P.O. Box 800, Rosemead, California 91770

*NRC Project Director:* Charles M. Trammell, Acting

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California

*Date of amendment request:* December 1, 1989

*Description of amendment request:* The licensee has proposed to modify the Technical Specifications for San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, in a request designated PCN 268. PCN 268 is a request to revise Technical Specification 3/4.3.2, "Engineered Safety Feature Actuation System Instrumentation," and Technical Specification 3/4.3.3.1, "Radiation Monitoring Instrumentation," surveillance requirements for the containment airborne radiation monitors. The requested changes to both specifications would modify the surveillance requirements regarding channel calibration and channel functional test for the containment airborne radiation monitors as specified in Table 4.3-2, "Engineered Safety Features Actuation System Instrumentation Surveillance Requirements." This revision would revise the frequency of channel calibration surveillances from an 18 month interval to an interval at least once per refueling interval, which is defined as at least once per 24 months.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided the following no significant hazards consideration determination:



1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No

The proposed change will extend the frequency of the 18 month surveillance test for the Containment Airborne Monitors (2RI-7804-1, 2RI-7807-2, 3RI-7804-1, and 3RI-7807-2). These monitors take a continuous air sample from the containment atmosphere through containment penetrations. The samples are continuously monitored for iodine, airborne particulate, and gaseous activity. The function of these monitors is to alarm on high radiation level and initiate a containment purge isolation signal (CPIS) in the event of a fuel handling accident inside the containment and detect a primary to atmosphere leak rate change inside the containment.

The Technical Specifications require that at least one of the two noble gas and one of two particulate monitoring channels be operable during all operating modes except cold shutdown (Mode 5). One of two iodine channels must be operable during refueling (Mode 6). Surveillance requirements state that each containment airborne monitor shall be demonstrated operable by the performance of a channel calibration at a frequency which is currently defined as "at least once per 18 months." The proposed change would revise this requirement from the current 18 month interval to an interval at least once per refueling, nominally 24 months, or maximum 30 months. The 30 month interval is identified pursuant to the maximum 25% extension of the surveillance interval permitted by allowance of Technical Specification 4.0.2.

A detailed maintenance history review was conducted for the containment airborne radiation monitoring system from the period from August 5, 1983 to August 1, 1989. This review covered the period from the time the plants went into commercial operation to the date of the most current calibration. A reliability centered maintenance (RCM) methodology was used as a basis for evaluating the monitor problems. All 18 month surveillance activities, and corrective maintenance (CM) activities were reviewed. This review provided an analysis of the problems being identified by the surveillance and identified alternate means of detection, by either condition or time directed means. The identification of adequate alternate means of problem detection provides assurance that surveillance extension will not impact Technical Specification on operability requirements.

The confidence that the equipment will perform the required Technical Specification defined function, over the increased surveillance interval, is provided by performance of the 31 day channel functional tests. The conclusion is that all problems that affect monitor operability were detected, or would have been detected, by the 31 day channel functional test (time directed means), alarms or indications to the operator (condition directed means). Extending the surveillance interval to a nominal 24 months interval, or maximum 30 months will not adversely affect monitor operability.

Therefore, the proposed change will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No

The proposed change extends the surveillance interval (for a test intended to be performed during a refueling outage) to coincide with the refueling outage interval of 24-month fuel cycles.

The 18 month surveillance procedure can only be used for calibrating out of tolerance equipment conditions. Other monitor problems identified during the 18 month surveillance must be repaired by corrective maintenance (CM) actions. CMs are also used to track repairs and engineering studies. The surveillance and CM history was reviewed and evaluated for these monitors. In order to verify that a new or different kind of accident would not be created, CM review was not restricted to CMs generated by surveillances. Rather, all corrective maintenance actions taken on these monitors were reviewed. This review was used to determine whether identified problems would affect Technical Specification operability and to identify the method of problem detection.

The comprehensive CM review of all CMs verified that the majority of the problems which could eventually impact monitor operability were detected during the 31 day tests. This review of CM activities verified that all problems were detected by elements of the preventive maintenance (PM) program. The PM program elements include 31 day tests, weekly or shiftly surveillances, and alarms. The problems that were found during the 18 month surveillances were also detected by the these alternate methods. The 31 day tests typically identify instrument tolerance problems, and problems with the check source drive, the particulate filter paper drive mechanism and the sample pump.

Weekly or shiftly operations or weekly chemistry surveillances also provide means of problem detection. Accordingly, problems are identified by these methods, and action taken to assure operability problems are minimized. These surveillances verify proper operation of the channels by observing individual channel behavior. The types of problems typically identified by these methods are flow problems, paper drive problems, and monitor noise/spiking.

Other types of equipment failures that are typically identified by alarms are monitor failures, high or low, and excessive instrument drift.

The results of the review of all identified CMs served a two fold purpose. Primarily, it served to identify the different types of problems which the monitors were experiencing so that these could be evaluated. It also served to verify that problems, identified to date, were identified by either the 31 day channel functional test, alarms, or indication to the operator.

Therefore, the proposed change will not create the possibility of a new or different

kind of accident from any accident previously evaluated.

3. Will operation of the facility in accordance with the proposed change involve a significant reduction in a margin of safety?

Response: No

The proposed change extends the 18 month interval for performing the 18 month surveillance to a refueling interval, nominally 24 months.

The margin of safety for the containment airborne radiation monitors is inherent with the design of the monitors. This proposed change does not modify monitor design in any way.

The review of all 18 month surveillances performed has found that no inoperable conditions were detected by the unique portions of the channel calibration. The out of tolerance condition that was detected does not adversely impact operability. A more degraded condition would have been captured by the 31 day channel functional test prior to affecting operability. All operability problems were detected, or would have been detected, by the channel functional test, alarms, or indications to the operator.

Channel functional testing, alarms, and operator indication for operability verification of these monitors provide adequate technical justification for extending the 18 month interval for channel calibration to a nominal 24 months, or maximum 30 months. The 30 month interval is identified pursuant to the maximum 25% extension of the surveillance interval permitted by allowance of Technical Specification 4.0.2. This evaluation serves to verify that design functions will not be affected by this proposed change.

Therefore, the proposed change will not involve a significant decrease in a margin of safety.

The NRC staff has reviewed this analysis and, based on that review, it appears that the three criteria are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

**Local Public Document Room location:** General library, University of California, P. O. Box 19557, Irvine, California 92713.

**Attorney for licensee:** Charles R. Kocher, Assistant General Counsel, and James Beolletto, Esquire, Southern California Edison Company, P.O. Box 800, Rosemead, California 91770

**NRC Project Director:** George W. Knighton

**Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee**

**Date of amendment requests:** December 8, 1989 (TS 89-18)

**Description of amendment requests:** The Tennessee Valley Authority proposed to modify the Sequoyah



Nuclear Plant (SQN), Units 1 and 2, Technical Specifications (TSs). The proposed changes are to delete surveillance requirement (SR) 4.5.2.d.1. This surveillance requires verification of the automatic isolation and interlock action of the residual heat removal (RHR) system from the reactor coolant system (RCS) when the RCS pressure is above 700 pounds per square inch gauge. This autoclosure interlock function is being deleted from the RHR system.

**Basis for proposed no significant hazards consideration determination:** In its submittal, TVA provided the following information on its proposed changes to the TS:

The spurious initiation of the autoclosure interlock function of the RHR system has been identified as a major contributor to accidents involving loss of RHR cooling capabilities during nonpower operations.

As documented in Westinghouse WCAP-11736, studies have shown that loss of RHR cooling during nonpower operations is a major contributor to the likelihood of a core damage accident. In order to reduce the likelihood of this accident, it is recommended that the autoclosure function of the RHR system be deleted.

Westinghouse Electric Corporation performed analyses (Westinghouse WCAP-11736) that evaluated the removal of the autoclosure interlock on a generic basis. NRC accepted the analyses in an August 8, 1989, letter to the Westinghouse Owners Group. The Westinghouse report demonstrated that the overall effect of the interlock deletion is a net improvement in plant safety and recommends the deletion for all Westinghouse Owners Group plants. TVA calculation SQN-SQS2-0097 demonstrates the applicability of the Westinghouse report to SQN.

The Commission has provided Standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires that at the time a licensee requests an amendment, it must provide to the Commission its analyses, using the standards in Section 50.92, on the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the licensee has performed and provided the following analysis:

TVA has evaluated the proposed TS change and has determined that it does not represent a significant hazards consideration based on criteria established in 10 CFR 50.92(c). Operation of SQN in accordance with the proposed amendment will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed deletion of the autoclosure interlock feature in conjunction with the plant modification to add the main control room alarm to alert the operator if either RHR suction valve is not in the closed position when RCS pressure is greater than the setpoint will decrease the frequency of an

interfacing systems LOCA (Loss-of-Coolant Accident). Additionally, the availability of the RHR system will increase. The removal of the autoclosure interlock function does not adversely impact any design basis event considered in SQN's FSAR [Final Safety Analysis Report].

(2) Create the possibility of a new or different kind of accident from any previously analyzed.

The design basis of the autoclosure interlock feature is to prevent the occurrence of an interfacing systems LOCA. The proposed alarm in the main control room will alert the operator if either RHR suction valve is not in the closed position when RCS pressure is greater than the setpoint. Also, SQN's General Operating Instruction (GOI) 1 requires the operator to isolate the RHR suction valves during plant heatup to provide a double barrier between the RCS and RHR systems at normal operating conditions. These features ensure that the intended function of the auto-closure interlock is provided and the intent of Regulatory Guide 1.139 [Guidance for Residual Heat Removal] is met. Therefore, no new or different [kind of] accident will be created.

(3) Involve a significant reduction in a margin of safety.

The autoclosure interlock feature is designed to prevent an interfacing system LOCA by ensuring that a double valve barrier exists between the RHR system and the RCS. Double barrier protection is maintained by administrative controls of the system and by the addition of an alarm. Overpressurization protection remains available because of the relief capabilities of the RHR pressure relief valves along with the low-temperature overpressurization protection currently in place. Based on TVA's evaluation and the analyses performed by Westinghouse, TVA considers the proposed autoclosure interlock modification to be acceptable for satisfying the basic safety requirements of the RHR system. The autoclosure interlock deletion provides a net safety enhancement for SQN.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendments involves no significant hazards considerations.

**Local Public Document Room location:** Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

**Attorney for licensee:** General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

**NRC Assistant Director:** Suzanne Black

**Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee**

**Date of amendment requests:** January 5, 1990 (TS 90-04)

**Description of amendment requests:** The Tennessee Valley Authority (TVA) proposes to modify the Sequoyah Nuclear Plant (SQN), Units 1 and 2, Technical Specifications (TSs).

**Basis for proposed no significant hazards consideration determination:** In its application, TVA provided the following information on the proposed changes to the TSs.

The action statements of LCO 3.8.1.1 are internally inconsistent in that Action a allows continued operation for 72 hours with a single diesel generator set inoperable, whereas Action d allows operation to continue for the same period of time with two diesel generator sets inoperable provided both diesel generator sets are on the same train (i.e., 1A-A and 2A-A or 1B-B and 2B-B). The requested change to Action a of LCO 3.8.1.1 provides consistency within the LCO as well as consistency with similar LCOs that have actions written with regard to "equipment train" availability.

The Commission has provided standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires that at the time a licensee requests an amendment, it must provide to the Commission its analyses, using the standards in Section 50.92, on the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the licensee has performed and provided the following analysis:

TVA has evaluated the proposed TS change and has determined that it does not represent a significant hazards consideration based on criteria established in 10 CFR 50.92(c). Operation of SQN in accordance with the proposed amendment will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed revision to LCO 3.8.1.1 Action a provides an action for diesel generator inoperability based on power trains rather than individual diesel generator sets. The requirements of General Design Criteria 17 of Appendix A to 10 CFR 50, which specify the minimum independent and redundant ac power sources, continue to be met by the proposed revision. The action requirements specified for the levels of degradation of the power sources provide restriction upon continued facility operation commensurate with the level of degradation. The operability of the power sources is consistent with degradation. The operability of the power sources is consistent with the initial condition assumptions of the safety analyses and is based upon maintaining at least one onsite ac power source operable during accident conditions with an assumed loss of offsite power and single failure of the other onsite ac source. This change has no impact on the probability or consequences of any accident previously evaluated.

(2) Create the possibility of a new or different kind of accident from any previously analyzed.



The proposed revision to LCO 3.8.1.1 Action a provides an action for diesel generator inoperability based on power trains rather than individual diesel generator sets. No physical plant modification is being made, and no analyses are being changed. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously analyzed.

(3) Involve a significant reduction in a margin of safety.

The proposed revision to LCO 3.8.1.1 Action a provides an action for diesel generator inoperability based on power trains rather than individual diesel generator sets. No physical plant modification is being made, and no analyses are being changed. The action requirements specified for the levels of degradation of the power sources provide restriction upon continued facility operation commensurate with the level of degradation. The operability of the power sources is consistent with the initial condition assumptions of the safety analyses and is based upon maintaining at least one onsite ac power source operable during accident conditions coincident with an assumed loss of offsite power and single failure of the other onsite ac source. Therefore, the proposed change does not involve a reduction in any margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendments involves no significant hazards considerations.

**Local Public Document Room**  
location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

**Attorney for licensee:** General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

**NRC Assistant Director:** Suzanne Black

**Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri**

**Date of amendment request:**  
November 14, 1989

**Description of amendment request:**  
The proposed amendment would revise Technical Specifications 6.3, Unit Staff Qualifications, and 6.4, Training, to delete the references to superseded requirements.

**Basis for proposed no significant hazards consideration determination:**  
The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not (1) involve a

significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

The licensee has provided the following analysis of no significant hazards considerations using the Commission's standards.

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated because the change merely deletes references to requirements superseded by the issuance of the revised regulation Title 10, CFR, Part 55; Regulatory Guide 1.8, Revision 2, and the Operator Licensing Examiner Standards, NUREG-1021, ES-202. The Union Electric Training Program remains in compliance and the proposed change constitutes an administrative revision.

2. The proposed amendment does not create the possibility of a new or different kind of accident than previously evaluated because the proposed change is administrative in nature, and no physical alterations of plant configuration or changes to setpoints or operating parameters are proposed.

3. The proposed amendment involves an administrative type change and does not involve a significant reduction in a margin of safety.

Based on the previous discussions, the licensee concluded that the proposed amendment request does not involve a significant increase in the probability or consequences of an accident previously evaluated; does not create the possibility of a new or different kind of accident from any accident previously evaluated; does not involve a reduction in the required margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. The staff, therefore, proposes to determine that the licensee's request does not involve a significant hazards consideration.

**Local Public Document Room**  
location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251 and the John M. Olin Library, Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

**Attorney for licensee:** Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

**NRC Project Director:** John N. Hannon

**Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri**

**Date of amendment request:**  
November 14, 1989

**Description of amendment request:**  
The proposed amendment would revise Technical Specification 4.0.2 and its associated bases to remove the 3.25 limit for surveillances as provided in Generic Letter 89-14.

**Basis for proposed no significant hazards consideration determination:**  
The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

The licensee has provided the following analysis of no significant hazards considerations using the Commission's standards.

The proposed change to the surveillance requirement does not involve a significant increase in the probability or consequences of an accident previously evaluated. The change merely is an effort to clarify, simply [sic], and streamline the specifications in accordance with the guidance provided in Generic Letter 89-14.

The proposed change to the surveillance requirement does not create the possibility of a new or different kind of accident from any previously evaluated. The change does not alter the requirements and the method and manner of plant operation are unchanged. It permits an allowable extension of the normal surveillance interval to facilitate surveillance scheduling and consideration of plant operating conditions that may not be suitable for conducting the surveillance.

The proposed change to the surveillance requirement does not involve a significant reduction in a margin of safety. The change does not effect any technical specification margin of safety, and it provides clarification for performance of surveillance requirements and will have an overall positive impact on safety.

Based on the previous discussions, the licensee concluded that the proposed amendment request does not involve a significant increase in the probability or consequences of an accident previously evaluated; does not create the possibility of a new or different kind of accident from any accident previously evaluated; and does not involve a reduction in the required margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. The staff, therefore,



proposes to determine that the licensee's request does not involve a significant hazards consideration.

**Local Public Document Room**

**location:** Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251 and the John M. Olin Library, Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

**Attorney for licensee:** Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

**NRC Project Director:** John N. Hannon

**Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri**

**Date of amendment request:**

November 14, 1989

**Description of amendment request:**

The proposed amendment would revise Technical Specifications 4.7.1.2.1.a(4) and 4.7.1.2.1.b(1) by identifying automatic valves that are either excluded or included in the flow path of the Auxiliary Feedwater System whose position has to be verified to demonstrate operability.

**Basis for proposed no significant hazards consideration determination:**

The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

The licensee has provided the following analysis of no significant hazards considerations using the Commission's standards.

1. The proposed changes to the surveillance requirements do not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed changes do not affect the ability of the AFW system to perform its intended safety function. The changes ... clarify the demonstration of operability required in the surveillance requirements.

2. The proposed changes to the surveillance requirements do not create the possibility of a new or different kind of accident from any previously evaluated. There are no new failure modes or mechanisms associated with the proposed changes. The changes ... remove confusion when performing surveillance requirements to demonstrate operability.

3. The proposed changes to the surveillance requirements do not involve a significant

reduction in a margin of safety. These changes do not effect any technical specification margin of safety. The changes provide clarification for performance of surveillance requirements.

Based on the previous discussions, the licensee concluded that the proposed amendment request does not involve a significant increase in the probability or consequences of an accident previously evaluated; does not create the possibility of a new or different kind of accident from any accident previously evaluated; and does not involve a reduction in the required margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. The staff, therefore, proposes to determine that the licensee's request does not involve a significant hazards consideration.

**Local Public Document Room**

**location:** Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251 and the John M. Olin Library, Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

**Attorney for licensee:** Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

**NRC Project Director:** John N. Hannon

**Vermont Yankee Nuclear Power Corporation, Docket No. 50-271, Vermont Yankee Nuclear Power Station, Vernon, Vermont**

**Date of amendment request:**

November 10, 1989

**Description of amendment request:**

The proposed amendment would revise the Pressure-Temperature limit curves in Technical Specification Figure 3.6.1.

**Basis for proposed no significant hazards consideration determination:**

The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from an accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee addressed the above three standards in the amendment application. In regard to the three standards, the licensee provided the following analysis:

10 CFR 50.92(c) states that a proposed amendment will not involve a significant hazards consideration if the proposed amendment does not: (i) involve a significant increase in the probability or consequences of an accident previously evaluated; or (ii) create the possibility of a new or different kind of accident from any accident previously evaluated; or (iii) involve a significant reduction in a margin of safety. The discussion below addresses these standards and demonstrates that operating the facility with these proposed changes involves no significant hazards considerations.

i. This proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated because the revised thermal and pressurization limits prohibit conditions where brittle fracture of reactor vessel materials is possible. Accordingly, there will be no increase in the probability or consequences of a previously evaluated accident, since the primary coolant pressure boundary integrity will be maintained consistent with the original safety design basis.

The RT<sub>NDT</sub> used to evaluate the new P-T limits for the beltline material was based on the guidance in Regulatory Guide 1.99, Revision 2, which is the latest guidance on RT<sub>NDT</sub> determinations. The revised P-T limit curves were conservatively generated in accordance with the fracture toughness requirements of 10 CFR 50, Appendix G, as supplemented by Appendix G to Section III of the ASME Boiler and Pressure Vessel Code.

ii. This proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated because the revised thermal and pressurization limits do not create any new kind of operating mode or introduce any new potential failure mode. Conditions where brittle fracture of primary coolant pressure boundary materials is possible will continue to be avoided.

iii. The proposed revisions do not involve a significant reduction in a margin of safety because the proposed P-T limits still provide sufficient safety margin. The revised P-T limits were established in accordance with current regulations and the latest regulatory guidance on RT<sub>NDT</sub> determinations. Because operation will be within these limits, the reactor vessel materials will behave in a nonbrittle manner, thus, maintaining the original safety design basis.

The staff has reviewed the licensee's analysis and agrees with it. Therefore, we conclude that the amendment satisfies the three criteria listed in 10 CFR 50.92. Based on that conclusion the staff proposes to make a no significant hazards consideration determination.

**Local Public Document Room**

**location:** Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301

**Attorney for licensee:** R. K. Gad, III, Esquire, Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 02110



*NRC Project Director:* Richard H. Wessman

**Yankee Atomic Electric Company,**  
Docket No. 50-029, Yankee Nuclear  
Power Station, Franklin County,  
Massachusetts

*Date of amendment request:* January 5, 1990

*Description of amendment request:*  
The proposed amendment would incorporate into the Technical Specifications modifications to allow the licensee to utilize a new Neutron Flux Instrumentation System, including its ability for enhanced testing at power, and modifications to clarify Specifications.

*Basis for proposed no significant hazards consideration determination:*  
The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from an accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee addressed the above three standards in the amendment application. In regard to the three standards, the licensee provided the following analysis.

(1) Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed Specification modifications compliment and take advantage of the broader adjustment and testing capability of the upgraded Neutron Flux Instrumentation System. This will further assure that the Neutron Flux Instrumentation System will be configured conservatively, perform as designed, and support the functions assumed in the accident analysis. Therefore, these proposed Specification modifications do not involve a significant increase in the probability or consequences of an accident.

(2) Use of the modified Specification would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed Specification modifications do not change Specification requirements for operation or surveillance of any piping systems, electrical power systems, or mechanical structures. The proposed Specification modifications compliment and take advantage of the broader adjustment and testing capability of the upgraded Neutron Flux Instrumentation System. This will further assure that the Neutron Flux

Instrumentation System will be configured conservatively, perform as designed, and support the functions assumed in the accident analysis. Therefore, the proposed Specification modifications do not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Use of the modified Specification would not involve a significant reduction in a margin of safety.

The proposed Specification modifications do not change any Specification safety limits, except to reduce setpoints not presently reduced (LCO 3.7.1.1 Action Statement, LCO 3.10.3, and LCO 3.10.4) and provide further conservatism. Therefore, the margin of safety is not reduced.

The staff has reviewed the licensee's no significant hazards consideration determination analysis. Based upon this review, the staff agrees with the licensee's no significant hazards analysis. Based upon the above discussion, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

*Local Public Document Room location:* Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301

*Attorney for licensee:* Thomas Dignan, Esquire, Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 02111

*NRC Project Director:* Richard H. Wessman

#### **NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE**

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the Federal Register as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant

to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

**Arizona Public Service Company, et al,**  
Docket Nos. STN 50-528 and STN 50-529, and STN 50-530, Palo Verde Nuclear Generating Station, Units 1, 2, and 3, Maricopa County, Arizona

*Date of application for amendments:* October 10, 1989

*Brief description of amendments:* The amendments revise Technical Specifications Section 3.3.2 to except the turbine-driven Auxiliary Feedwater pump from ESFAS response time testing until Mode 3 conditions are reached.

*Date of issuance:* December 22, 1989

*Effective date:* December 22, 1989

*Amendment Nos.:* 45, 31 and 20

*Facility Operating License Nos. NPF-51 and NPF-74:* Amendments changed the Technical Specifications.

*Date of initial notice in Federal Register:* November 15, 1989 (54 FR 47599). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 22, 1989.

*No significant hazards consideration comments received:* No.

*Local Public Document Room location:* Phoenix Public Library, Business and Science Division, 12 East McDowell Road, Phoenix, Arizona 85004.

**Consolidated Edison Company of New York, Docket Nos. 50-003 and 50-247, Indian Point Nuclear Generating Unit Nos. 1 and 2, Westchester County, New York**

*Date of application for amendment:* July 25, 1989



**Brief description of amendment:**

These amendments revise the "Indian Point Station Units 1 and 2 Physical Security Plan" to (1) redefine several vital areas of Indian Point 2 as Type I rather than Type II and vice versa, (2) make several changes for clarification and standardization of terminology, (3) remove several items from the list of vital equipment but not actually remove the equipment from vital areas, and (4) remove the City Water Tank from the list of vital equipment and delete its vital area.

**Date of issuance:** January 2, 1990

**Effective date:** January 2, 1990

**Amendment Nos.:** 41 for Unit 1 and 145 for Unit 2.

**Facility Operating Licensing Nos. DPR-5 and DPR-28:** Amendments revise License Condition 3.D for Unit 1 and License Condition 2.H for Unit 2.

**Date of initial notice in Federal Register:** August 23, 1989 (54 FR 34101). The Commission's related evaluation of the amendments is contained in a Safeguards Evaluation dated January 2, 1990.

**No significant hazards consideration comments received:** No

**Local Public Document Room location:** White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

**Detroit Edison Company, Docket No. 50-341, Fermi-2, Monroe County, Michigan**

**Date of application for amendment:** November 15, 1988.

**Brief description of amendment:** This amendment revised the Technical Specifications (TSs) to clarify the location of the noble gas monitor in the Fermi-2 off gas system. In addition, the term "Hot Standby" in the action statement of Section 3.11.2.7 of the TSs is replaced by "Startup, with all main steamlines isolated."

**Date of issuance:** December 4, 1989

**Effective date:** December 4, 1989

**Amendment No.:** 47

**Facility Operating License No. NPF-43:** The amendment revises the Technical Specifications.

**Date of initial notice in Federal Register:** May 17, 1989 (54 FR 21305). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 4, 1989.

**No significant hazards consideration comments received:** No.

**Local Public Document Room location:** Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48181.

**Duke Power Company, Docket Nos. 50-269, 50-270 and 50-287, Oconee Nuclear Station, Units 1, 2 and 3, Oconee County, South Carolina**

**Date of application for amendments:** February 17, 1989, as supplemented August 18, 1989

**Brief description of amendments:** The amendments revised Technical Specification (TS) 3.3 to include requirements for a flow path from the discharge of the low pressure injection pumps to the suction of the high pressure injection pumps, and TS 4.5 to require periodic manual cycling of valves in this flow path to demonstrate valve operability.

**Date of issuance:** January 4, 1990

**Effective date:** January 4, 1990

**Amendment Nos.:** 181, 181, and 178

**Facility Operating License Nos. DPR-38, DPR-47 and DPR-55:** Amendments revised the Technical Specifications.

**Date of initial notice in Federal Register:** September 6, 1989 (54 FR 37045). The August 18, 1989, submittal provided additional clarifying information that did not change the initial determination of no significant hazards consideration. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 4, 1990.

**No significant hazards consideration comments received:** No.

**Local Public Document Room location:** Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina 29691

**Duquesne Light Company, Docket Nos. 50-334 and 50-412, Beaver Valley Power Station, Unit Nos. 1 and 2, Shippingport, Pennsylvania**

**Date of application for amendments:** June 29, 1989

**Brief description of amendments:** The amendments revise miscellaneous requirements in the units' Technical Specifications. Other than those changes that are purely editorial, the amendments cover requirements on these systems: charging pumps, low-head safety injection system, waste gas decay tank, accumulators, quench spray pumps, main steam isolation valves, and residual heat removal system.

**Date of issuance:** January 3, 1990

**Effective date:** January 3, 1990

**Amendment Nos.:** 148 for Unit 1; 25 for Unit 2

**Facility Operating License Nos. DPR-66 and NPF-73:** Amendments revised the Technical Specifications.

**Date of initial notice in Federal Register:** August 9, 1989 (54 FR 32789). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 3, 1990

**No significant hazards consideration comments received:** No.

**Local Public Document Room location:** B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

**Duquesne Light Company, Docket No. 50-334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania**

**Date of application for amendment:** October 16, 1989

**Brief description of amendment:** The amendment revises the Technical Specifications to update the diesel generator fuel oil surveillance requirements to current standards.

**Date of issuance:** January 4, 1990

**Effective date:** January 4, 1990

**Amendment No.:** 149

**Facility Operating License No. DPR-66:** Amendment revised the Technical Specifications.

**Date of initial notice in Federal Register:** November 29, 1989 (54 FR 49128). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 4, 1990

**No significant hazards consideration comments received:** No

**Local Public Document Room location:** B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

**Florida Power and Light Company, et al., Docket No. 50-389, St. Lucie Plant, Unit No. 2, St. Lucie County, Florida**

**Date of application for amendment:** July 26, 1989

**Brief description of amendment:** This amendment revises Action f. of Technical Specification 3.8.1.1. to make it consistent with the emergency diesel generator testing action requirements.

**Date of Issuance:** January 10, 1990

**Effective Date:** January 10, 1990

**Amendment No.:** 43

**Facility Operating License No. NPF-16:** Amendment revised the Technical Specifications.

**Date of initial notice in Federal Register:** August 23, 1989 (54 FR 35103). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 10, 1990.

**No significant hazards consideration comments received:** No.

**Local Public Document Room location:** Indian River Junior College Library, 3209 Virginia Avenue, Ft. Pierce, Florida.



**Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-321 and 50-366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia**

*Date of application for amendments:* June 22, 1989, as amended on July 31, 1989, and October 4, 1989.

*Brief description of amendments:* The amendments change the Technical Specifications (TS) for Units 1 and 2 to replace the values of cycle-specific parameter limits in core-related specifications with a reference to a Core Operating Limits Report (COLR) which will contain the values of these limits. These amendments also modify the Definitions sections of the TS to include a definition of the COLR and modify the Administrative Controls sections of the TS to require that cycle-specific parameter limits be established and documented in the COLR. Additionally, the amendments reduce from 20 percent to 10 percent the rated thermal power level below which Control Rod Program Control function is required and revise the Bases and Definitions to permit use of NRC-approved transition boiling correlations other than GEXL.

*Date of issuance:* December 29, 1989

*Effective date:* December 29, 1989

*Amendment Nos.:* 168 and 106

*Facility Operating License Nos. DPR-57 and NPF-5.* Amendments revised the Technical Specifications.

*Date of initial notice in Federal Register:* November 1, 1989 (54 FR 46147). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 29, 1989

*No significant hazards consideration comments received:* No.

*Local Public Document Room*

*location:* Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513

**Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50-366, Edwin I. Hatch Nuclear Plant, Unit 2, Appling County, Georgia**

*Date of application for amendment:* August 22, 1989

*Brief description of amendment:* The amendment corrects two pages of the Unit 2 TSs to incorporate changes to the Reactor Protection System instrumentation surveillance requirements that previously were approved by Amendment 100 to the TSs but which were not properly incorporated in the TS pages issued with Amendment 100.

*Date of issuance:* December 29, 1989

*Effective date:* December 29, 1989

*Amendment No.:* 104

*Facility Operating License No. NPF-5.* Amendment revised the Technical Specifications.

*Date of initial notice in Federal Register:* November 15, 1989 (54 FR 47603). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 29, 1989

*No significant hazards consideration comments received:* No.

*Local Public Document Room*

*location:* Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513

**Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50-366, Edwin I. Hatch Nuclear Plant, Unit 2, Appling County, Georgia**

*Date of application for amendment:* September 18, 1989

*Brief description of amendment:* The amendment reduces the Technical Specification (TS) Minimum Critical Power Ratio (MCPR) safety limit for Unit 2 from the current value of 1.07 to 1.04 for two-loop operation and from 1.08 to 1.05 for single-loop operation, and in addition, changes the associated Bases.

*Date of issuance:* December 29, 1989

*Effective date:* December 29, 1989

*Amendment No.:* 105

*Facility Operating License No. NPF-5.* Amendment revised the Technical Specifications.

*Date of initial notice in Federal Register:* November 1, 1989 (54 FR 46149). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 29, 1989

*No significant hazards consideration comments received:* No.

*Local Public Document Room*

*location:* Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513

**Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Dockets Nos. 50-424 and 50-425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia**

*Date of application for amendments:* May 19, 1989

*Brief description of amendments:* The amendments allow operational mode changes while certain control room ventilation TS action statements are in effect.

*Date of issuance:* January 9, 1990

*Effective date:* January 9, 1990

*Amendment Nos.:* 26, 7

*Facility Operating Licenses Nos. NPF-68 and NPF-81:* Amendments revised the Technical Specifications.

*Date of initial notice in Federal Register:* July 26, 1989 (54 FR 31108). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 9, 1990.

*No significant hazards consideration comments received:* No.

*Local Public Document Room*

*location:* Burke County Library, 412 Fourth Street, Waynesboro, Georgia 30830

**Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Dockets Nos. 50-424 and 50-425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia**

*Date of application for amendments:* September 26, 1989

*Brief description of amendments:* The amendments allow operation of Unit 2 with a slightly positive moderator temperature coefficient below 100% power. The amendments are effective following shutdown from Unit 2 Cycle 1 operation.

*Date of issuance:* January 4, 1990

*Effective date:* January 4, 1990

*Amendment Nos.:* 25 and 6

*Facility Operating License Nos. NPF-68 and NPF-81:* Amendments revised the Technical Specifications.

*Date of initial notice in Federal Register:* November 15, 1989 (54 FR 47603). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 4, 1990.

*No significant hazards consideration comments received:* No.

*Local Public Document Room*

*location:* Burke County Library, 412 Fourth Street, Waynesboro, Georgia 30830

**Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut**

*Date of application for amendment:* August 14, 1989

*Brief description of amendment:* The amendment modifies Facility Operating License, NPF-49, by deleting the following license conditions: (1) 2.C(3), "Containment Average Temperature," (2) 2.C(4), "N-1 Loop Operation," (3) 2.C(6), "Instrumentation for Monitoring Post-Accident Conditions, R.G. 1.97, Revision 2 Requirements," (4) 2.C(8), "Moisture in Air Start System," (5) 2.C(g), "Operating Staff Experience



Requirements," (6) 2.C(11), "Revised Small Break LOCA Methods to Show Compliance With 10 CFR 50.46, TMI Item II.K.3.31," (7) 2.C(12), "Safety Parameter Display System (SPDS)," and (8) 2.C(13), "Detailed Control Room Design Review."

*Date of issuance:* December 18, 1989

*Effective date:* December 18, 1989

*Amendment No.:* 42

*Facility Operating License No. NPF-49.* Amendment deletes license conditions 2.C(3), 2.C(4), 2.C(6), 2.C(8), 2.C(9), 2.C(11), 2.C(12) and 2.C(13) of the Facility Operating License.

*Date of initial notice in Federal Register:* October 4, 1989 (54 FR 40928). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 18, 1989

*No significant hazards consideration comments received:* No.

*Local Public Document Room location:* Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

**Northeast Nuclear Energy Company, et al.,** Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

*Date of application for amendment:* August 22, 1989

*Brief description of amendment:* The amendment modifies Technical Specification (TS) 3/4.3.3.7, "Fire Detection Instrumentation" as follows: (1) An incorrect reference to containment air temperature monitoring requirements is corrected, (2) A definition of "not accessible during plant operation" is incorporated in the TS as a footnote and (3) Changes are made to the list of fire detectors contained in TS Table 3.3-11, "Fire Detection Instruments."

*Date of issuance:* December 27, 1989

*Effective date:* December 27, 1989

*Amendment No.:* 44

*Facility Operating License No. NPF-49.* Amendment revised the Technical Specifications.

*Date of initial notice in Federal Register:* October 4, 1989 (54 FR 40929). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 27, 1989

*No significant hazards consideration comments received:* No.

*Local Public Document Room location:* Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

**Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York**

*Date of application for amendment:* May 31, 1989, amplified July 7, 1989.

*Brief description of amendment:* The amendment changes the flow rate test requirements of the Core Spray System pumps to more accurately specify the test criteria.

*Date of issuance:* January 2, 1990

*Effective date:* January 2, 1990

*Amendment No.:* 149

*Facility Operating License No. DPR-59:* Amendment revised the Technical Specification.

*Date of initial notice in Federal Register:* August 23, 1989 (54 FR 35109). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 2, 1990.

*No significant hazards consideration comments received:* No

*Local Public Document Room location:* Penfield Library, State University College of Oswego, Oswego, New York.

**South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina**

*Date of application for amendment:* August 2, 1985, as supplemented March 30, 1988, June 15, 1989 and September 1, 1989.

*Brief description of amendment:* The Amendment extends the expiration date for Facility Operating License NPF-12 from March 21, 2013 to August 6, 2022.

*Date of issuance:* January 3, 1990

*Effective date:* January 3, 1990

*Amendment No.:* 82

*Facility Operating License No. NPF-12.* Amendment revises the Technical Specifications.

*Date of initial notice in Federal Register:* May 7, 1986 (51 FR 16934). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 3, 1990. The March 30, 1988, June 15, 1989, and September 1, 1989 letters provided clarifying information that did not change the action or initial determination of no significant hazards consideration published in the Federal Register.

*No significant hazards consideration comments received:* No

*Local Public Document Room location:* Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

**Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio**

*Date of application for amendment:* January 4, 1988

*Brief description of amendment:* The amendment revised the wording in Technical Specification 3.9.1 to clarify that the required boron concentration in the reactor coolant system and the refueling canal is not applicable when there is no fuel in the reactor pressure vessel.

*Date of issuance:* December 29, 1989

*Effective date:* December 29, 1989

*Amendment No.:* 143

*Facility Operating License No. NPF-3.* Amendment revised the Technical Specifications.

*Date of initial notice in Federal Register:* March 23, 1988 (53 FR 9518). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 29, 1989

*No significant hazards consideration comments received:* No

*Local Public Document Room location:* University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43608.

**Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio**

*Date of application for amendment:* June 16, 1989 as revised August 21, 1989

*Brief description of amendment:* The amendment relocated the values of cycle-specific limits from the Technical Specifications to a new document entitled "Core Operating Limits Report" in accordance with NRC Generic Letter 88-16. The requirements to meet these limits and the associated Action Statements if limits are not met are retained in the Technical Specifications.

*Date of issuance:* January 11, 1990

*Effective date:* January 11, 1990

*Amendment No.:* 144

*Facility Operating License No. NPF-3.* Amendment revised the Technical Specifications.

*Date of initial notice in Federal Register:* September 20, 1989 (54 FR 38768). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 11, 1990.

*No significant hazards consideration comments received:* No

*Local Public Document Room location:* University of Toledo Library,



Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

**Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri**

*Date of application for amendment:* August 2, 1989

*Brief description of amendment:* The amendment revised Technical Specification 3/4.3.3, Radiation Monitoring for Plant Operations, by increasing the permitted period of inoperability for one channel of the control room air intake monitors and fuel building atmosphere monitors from 1 to 72 hours.

*Date of issuance:* January 5, 1990

*Effective date:* January 5, 1990

*Amendment No.:* 49

*Facility Operating License No. NPF-30.* Amendment revised the Technical Specifications.

*Date of initial notice in Federal Register:* September 20, 1989 (54 FR 38768). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 5, 1990.

*No significant hazards consideration comments received:* No.

*Local Public Document Room location:* Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251 and the John M. Olin Library, Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

**Wisconsin Electric Power Company, Docket Nos. 50-266 and 50-301, Point Beach Nuclear Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin**

*Date of application for amendments:* August 3, 1989, as amended October 3, 1989

*Brief description of amendments:* The amendment revised provisions of the Point Beach Nuclear Plant, Unit Nos. 1 and 2, Technical Specifications (TS) relating to the permissible heatup and cooldown curves. The heatup and cooldown limitation curves have been revised to be applicable through 18.1 effective full power years. Further, the TS have been simplified by taking the most limiting set of curves for either Unit 1 or Unit 2 and making that set applicable to both units.

*Date of issuance:* January 10, 1990

*Effective date:* January 10, 1990

*Amendment Nos.:* 125 & 129

*Facility Operating License Nos. DPR-24 and DPR-27.* Amendments revised the Technical Specifications.

*Date of initial notice in Federal Register:* December 5, 1989 (54 FR 50296). The Commission's related

evaluation of the amendments is contained in a Safety Evaluation dated January 10, 1990.

*No significant hazards consideration comments received:* No.

*Local Public Document Room location:* Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin.

**NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND FINAL DETERMINATION OF NO SIGNIFICANT HAZARDS CONSIDERATION AND OPPORTUNITY FOR HEARING (EXIGENT OR EMERGENCY CIRCUMSTANCES)**

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for a Hearing. For exigent circumstances, the Commission has either issued a Federal Register notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the

Commission may not have had an opportunity to provide for public comment on its no significant hazards determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendments. By February 23, 1990, the licensee may file a request for a hearing with respect to



issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the Local Public Document Room for the particular facility involved.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of

the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (Project Director): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the

General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

**Pennsylvania Power and Light Company, Docket No. 50-388**  
Susquehanna Steam Electric Station,  
Unit 2, Luzerne County, Pennsylvania

*Date of Application for amendment:*  
November 20, 1989

*Brief description of amendment:* The amendment changed the Technical Specifications to permit a one-time relief from (one 18-month cycle) surveillance requirements for Reactor Core Isolation Cooling and High Pressure Coolant Injection Systems.

*Date of Issuance:* December 18, 1989

*Effective Date:* December 18, 1989

*Amendment No.:* 62

*Facility Operating License No. NPF-22:* Amendment revised the Technical Specifications.

*Public comments requested as to proposed no significant hazards consideration:* No

The Commission's related evaluation of the amendment, consultation with the Commonwealth of Pennsylvania and final no significant hazards consideration determination are contained in a Safety Evaluation dated December 18, 1989.

*Attorney for licensee:* Jay Silberg, Esq., Shaw, Pittman, Potts & Trowbridge 2300 N Street NW., Washington, DC 20037

*Local Public Document Room Location:* Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18071.

*NRC Project Director:* Walter R. Butler

Dated at Rockville, Maryland, this 17th day of January, 1990.

For the Nuclear Regulatory Commission  
Gary M. Holahan,

*Acting Director, Division of Reactor Projects - III, IV, V and Special Projects Office of Nuclear Reactor Regulation*

[Doc. 90-1488 Filed 1-23-90; 8:45 am]

BILLING CODE 7590-01-D



[Docket No. 030-20567; License No. 24-21362-01; General License 10 CFR 110.23; EA 89-257]

**American Radiolabeled Chemicals, St. Louis, MO; Order Suspending Licenses (Effective Immediately)**

**I**

American Radiolabeled Chemicals (the licensee) is the holder of Byproduct Materials License No. 24-21362-01 issued by the Nuclear Regulatory Commission (NRC or Commission) on August 15, 1983, pursuant to 10 CFR part 30. The license was due to expire on August 31, 1988, and is currently in effect pursuant to a timely application for renewal in accordance with 10 CFR 2.109. The license authorizes the licensee to possess and use licensed materials (carbon-14, hydrogen-3, phosphorus-32, and sulfur-35) in the synthesis of radiolabeled chemicals for distribution to persons authorized to receive the licensed material under terms of specific licenses issued by the Commission or an Agreement State. In addition, 10 CFR 110.23(a) grants the licensee a general license to export byproduct materials to any country not listed in 10 CFR 110.28.

**II**

In response to allegations received by the NRC Region III Office, an inspection was initiated on December 21, 1989. The allegations concerned, among other matters, falsification of shipping records, failure to train personnel handling radioactive materials, and failure to evaluate the results of bioassay testing.

During the NRC inspection on December 21, 1989, and continuing on December 27 and 28, 1989, at the licensee's facility in St. Louis, Missouri, NRC inspectors identified that on January 3, April 26, June 13, July 10, October 6, October 16, and October 20, 1989, the licensee shipped radiolabeled chemicals manufactured at its facility to a customer in Switzerland on commercial passenger aircraft. On those dates, the containers for shipments of either potassium cyanide, bromoacetic acid or methyl bromide tagged with carbon-14 were improperly labeled and the shipping papers for those shipments incorrectly identified the contents of the containers as carbon-14 tagged glucose. Each of these radiochemicals is designated by 49 CFR 172.101 as a hazardous material. Methyl bromide and potassium cyanide are designated as "Poison B" and bromoacetic acid is designated as "Corrosive Material."

This shipping practice was in violation of the NRC regulation, 10 CFR

71.5, which requires compliance with applicable Department of Transportation (DOT) requirements concerning transportation of hazardous materials. DOT requirements violated include:

1. 49 CFR 172.203(k)(1), which requires that the shipping papers include the name of the compound or principal constituent that causes a material to be classified as a poison if the compound or constituent name is not part of the proper shipping name, and 49 CFR 172.203(k)(2), which requires that the word "Poison" be included on the shipping papers. The shipping papers for shipments of potassium cyanide and/or methyl bromide tagged with carbon-14 occurring on January 3, April 26, July 10, and October 6, 16 and 20, 1989, listed the material shipping name as "Radioactive, N.O.S." without the "Poison" designation or the compound name indicated on the shipping papers.

2. 49 CFR 172.402(a)(1) and 49 CFR 172.403(e), which require packages of radioactive material that meet the definition of other hazards be labeled as radioactive material and labeled for each additional hazard class. The radioactive materials contained in the packages offered for shipment as described in 1, above, and the material, bromoacetic acid tagged with carbon-14, contained in the package offered for shipment on June 13, 1989, were also classified as poison or corrosive hazards, but the packages were not labeled as poison or corrosive, as applicable.

3. 49 CFR 172.204, which requires the shipper to certify that hazardous materials offered for shipment are properly described and labeled according to applicable regulations. The licensee offered hazardous materials for shipment as described in 1 and 2, above, without meeting the requirements described in 1 and 2, above, but falsely certified that those shipments met those requirements.

When confronted with evidence indicating improper shipment of materials on December 21, 1989, the licensee's president stated that the licensee was having difficulty transporting the hazardous radiochemicals to Switzerland, and admitted that at the customer's request, the licensee misrepresented the chemicals to avoid shipping delays. A Confirmatory Action Letter (CAL) was issued on December 22, 1989, describing interim controls agreed to by the licensee to ensure proper documentation of shipments in the future.

In addition, the NRC inspection on December 27 and 28, 1989, at the St. Louis facility, also identified that the

licensee's evaluations of bioassay data, laboratory workspace airborne radioactive material data, and radioactive effluent release data were inadequate to assure compliance with regulatory requirements. The following violations were identified:

1. During the period from July through December 1989, the licensee failed to comply with 10 CFR 20.201(b) in that it did not adequately evaluate radioactive effluent release data from its effluent monitoring system to assure compliance with 10 CFR 20.106. Based on the licensee's records for this period, the average radioisotope release rates were frequently in excess of the maximum permissible concentrations (MPC) allowed in 10 CFR part 20, Appendix B, Table II, Column 1 and, an analysis completed August 7, 1989, indicated releases during one week were in excess of 80 times the MPC.

2. During the period from July through December 1989, the licensee failed to comply with 10 CFR 20.201(b) in that it did not adequately evaluate airborne radioisotope concentrations in the laboratory working environment or bioassay data to assure compliance with 10 CFR 20.103(a). Further, the licensee failed to comply with Condition 15 of the Byproduct Materials License in that it did not take corrective actions to minimize further exposure when the licensee's records indicated that radiation workers were exposed to greater than 10% of the maximum permissible concentrations stated in 10 CFR part 20, Appendix B, Table I, Column 1; an action limit established by that license condition.

3. During 1989, the licensee failed to comply with 10 CFR 19.12 in that it failed to instruct two radiochemists and one secretary who handled licensed material in the applicable provisions of the Commission's regulations and the licensee's procedures regarding radiation protection.

On December 29, 1989, the NRC issued a second CAL documenting the licensee's agreement to suspend production activities using licensed materials. Notwithstanding the issuance of these CALs, further action is required as stated below.

**III**

The federal regulations for shipping hazardous materials have been established, in part, to protect the public, including passengers in aircraft, from the potential dangers of hazardous materials. For the safety of handlers and passengers, regulations dictate labeling, documentation, and packaging requirements for shipping hazardous



materials. The federal regulations controlling the safe use of radioactive materials have been established to protect workers and the public from the potential hazards of radioactive material. For the safety of workers and members of the general public, NRC regulations specify that licensees evaluate the radiation hazards associated with licensed activities, train radiation workers, and limit the releases of radioactive materials to the environment.

While the NRC evaluation of licensed activities conducted by this licensee is continuing, the information developed to date indicates that violations of very significant regulatory concern occurred. The violations described in Section II, above, involve significant failures to evaluate radiation hazards and control radioactive materials, and demonstrate at least a careless disregard of Commission requirements designed to protect the public health and safety, including licensee employees. Therefore, I conclude that the licensee is either unable or unwilling to protect its employees and members of the general public from the hazards of radioactive materials. Moreover, the licensee's admission of its intentional violations of NRC and DOT transportation requirements demonstrates a disregard for the public health and safety. Given the extensiveness, the significance, and willfulness of the violations, I no longer have reasonable assurance that the licensee's current operations can be conducted under License No. 24-21362-01 and its general export license in compliance with the Commission's requirements without undue risk to the public health and safety, including the licensee's employees. Therefore, License No. 24-21362-01 and the licensee's general export license are being suspended pending resolution of the licensee's application for renewal of License No. 24-21362-01 following NRC's completion of its evaluation of recent inspection findings. Furthermore, pursuant to 10 CFR 2.204, 110.62(c) and 110.63(d), I find that the public health, safety, and interest require that this Order be immediately effective and that no prior notice is required.

#### IV

Accordingly, in view of the foregoing and pursuant to sections 81, 161b, 161c, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.204, 110.60(d), and 110.63, and 10 CFR part 30, it is hereby ordered, effective immediately, that:

A. Activities under License No. 24-21362-01 and activities pursuant to the

licensee's general export license, granted pursuant to 10 CFR 110.23, are suspended pending NRC's resolution of the licensee's application for renewal of License No. 24-21362-01.

B. The licensee shall immediately, if it has not done so already, place all byproduct material in its possession in locked safe storage and, within 24 hours of the receipt of this Order, notify the Regional Administrator, Region III, in writing under oath or affirmation, of compliance with the provisions of this Order.

The Regional Administrator, Region III, may in writing relax or rescind any of the above provisions on demonstration of good cause shown by the licensee. Nothing in this Order relieves the licensee from complying with all applicable Commission requirements including the radiological protection requirements of its license conditions and 10 CFR part 20.

#### V

The licensee may file an answer to this Order within 20 days of the date of issuance of this Order, setting forth the matters of fact and law on which the licensee relies. Any answer to this Order shall be submitted to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555. Copies also shall be sent to the Assistant General Counsel for Hearings and Enforcement at the same address and to the Regional Administrator, NRC Region III, 799 Roosevelt Road, Glen Ellyn, IL 60137.

#### VI

The licensee or any other person adversely affected by this Order may request a hearing within 20 days of the date of this Order. Any request for a hearing shall be sent to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Chief, Docketing and Service Section, and shall include a copy of the answer to the Order. Copies of the hearing request also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, and to the Regional Administrator, NRC Region III, 799 Roosevelt Road, Glen Ellyn, IL 60137. If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which its interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by the licensee or a person whose interest is

adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

#### VIII

Upon the licensee's consent to the provisions set forth in Section IV of this Order, or upon failure of the licensee to file an answer within the specified time, and in the absence of any request for a hearing, the provisions specified in Section IV above shall be final without further Order or proceedings.

An answer under section V or a request for hearing under section VI of this order shall not stay the immediate effectiveness of this order.

For the Nuclear Regulatory Commission.

Dates at Rockville, Maryland this 11th day of January 1990.

Hugh L. Thompson, Jr.,

Deputy Executive Director for Nuclear Materials, Safety, Safeguards, and Operations Support.

[FR Doc. 90-1593 Filed 1-23-90; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-327 and 50-329]

#### **Tennessee Valley Authority; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing**

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR-77 and DPR-79, issued to the Tennessee Valley Authority (TVA or the licensee), for the operation of the Sequoyah Nuclear Plant, Units 1 and 2, located in Hamilton County, Tennessee.

The proposed amendment would modify the requirements on the containment ice condenser in the Sequoyah (SQN) Technical Specifications (TSs). One proposed change would revise Surveillance Requirement (SR) 4.6.5.1.b.2 to extend the 12-month ice weighing interval to 18 months. An associated 12-month SR for ice condenser lower inlet doors (SR 4.6.5.3.1.b) would be extended to coincide with the proposed 18-month interval for weighing ice and to increase the sample size from 25 percent to 100 percent. Additionally, TVA is also proposing to lower the minimum ice basket weight from 1,200 pounds (lb) to 1,155 lb, thus lowering the overall ice condenser weight from 2,333,100 lb to



2,245,320 lb. A one-time TS provision contained in a footnote on each unit is no longer applicable and would also be deleted. Text changes would be made to SRs 4.6.5.1.b, 4.6.5.3.1.b, and 4.6.5.3.2.b to delete requirements regarding test milestones that were previously completed during the first two years of Sequoyah operation and are thereby no longer applicable.

To support its proposed changes, TVA provided the following information in its submittal:

TVA is requesting an extension of SRs 4.6.5.1.b.2 and 4.6.5.3.1.b to extend weighing of ice and testing of ice condenser lower inlet doors to be coincident with refueling outages. This extension would provide increased plant availability and would allow for more efficient use of manpower. Revised design basis analyses performed by Westinghouse Electric Corporation, using staff-approved modeling enhancements, have shown that the amount of ice required for accident mitigation may be reduced without decreasing safety margins. TVA proposes to incorporate the results of the Westinghouse analyses into the plant design basis.

To preclude a Unit 2 ice weighing outage currently scheduled for March 5, 1990, TVA has requested that NRC act on TVA's proposed changes to the TSs by March 1, 1990. Before issuance of the proposed amendments, the Commission will have made findings required by the Atomic Energy Act of 1954 as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. 10 CFR 50.91 requires that at the time a licensee requests an amendment, it must provide to the Commission its analyses, using the standards in § 50.92, on the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the licensee has performed and provided the following analysis:

TVA has evaluated the proposed TS change and has determined that it does not represent a significant hazards consideration based on criteria established in 10 CFR 50.92(c). Operation of SQN in accordance with the proposed amendment[s] will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

TVA proposes to modify the SQN Unit 1 and Unit 2 TSs to revise SR 4.6.5.1.b.2 to allow extension of the 12-month ice-weighing interval to 18 months. TVA is requesting an extension to allow the ice weighing to be conducted coincident with the refueling outages. An associated 12-month SR for ice condenser lower inlet doors (SR 4.6.5.3.1.b) is also being extended to coincide with the 18-month interval for weighing ice.

The ice condenser system is provided to absorb thermal energy release following a LOCA (loss-of-coolant accident) or high energy line break (HELB) and to limit the peak pressure inside containment. The current containment analysis for SQN is based on a minimum of 1,080 lb of ice per basket evenly distributed throughout the ice condenser. The revised containment analysis shows that for the predicted sublimation rate of 15 percent for 18 months, an average basket weight of 993 lb at the end of the 18-month period would ensure containment design pressure is not exceeded.

Based on TVA's evaluation and the revised containment analysis, TVA considers the reduction of ice weight to be acceptable for satisfying the safety function of the ice condenser for the proposed 18-month ice-weighing interval. Based on TVA's findings from the review of historical test data for lower inlet doors along with the expansion of the 25 percent test sample to include testing of all lower inlet doors for opening/closing torque, TVA considers the extended 18-month test interval to be acceptable for satisfying the safety function of these doors. TVA's proposed text change to SRs 4.6.5.1.b, 4.6.5.3.1.b, and 4.6.5.3.2.b is an administrative change that removes previously completed test milestones during the first two years of SQN operation. These requirements are no longer applicable and are being deleted for clarity and to avoid the possibility of confusion. The proposed change[s] therefore [do] not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Create the possibility of a new or different kind of accident from any previously analyzed.

TVA's request for an 18-month ice-weighing interval will not result in a new or different kind of accident from that previously analyzed in SQN's Final Safety Analysis Report. SQN's ice condenser serves to limit the peak pressure inside containment following a LOCA. TVA has evaluated the revised containment pressure analysis for SQN and determined that sufficient ice would be present at all times to keep the peak containment pressure below SQN's containment design pressure of 12 pounds per square inch gage (psig).

TVA's request for an 18-month lower inlet door surveillance frequency will not result in a new or different kind of accident from that previously analyzed. Surveillance testing of the lower inlet doors continues to ensure the reactor coolant system fluid released during a LOCA will be diverted through the ice condenser bays for heat removal and that

excessive sublimation of the ice bed will not occur because of warm air intrusion.

[The proposed changes, therefore, would not result in a new or different kind of accident from any previously analyzed].

TVA's proposed test change to SRs 4.6.5.1.b, 4.6.5.3.1.b, and 4.6.5.3.2.b is an administrative change that removes previously completed test milestones during the first two years of SQN operation. These requirements are no longer applicable and are being deleted for clarity and to avoid the possibility of confusion. This administrative change would not result in a new or different kind of accident from any previously analyzed.

(3) Involve a significant reduction in a margin of safety.

The ice condenser is provided to absorb thermal energy release following a LOCA and to limit the peak pressure inside containment. The current ice condenser analysis for SQN is based on a minimum of 1,080 lb of ice per basket. The revised containment analysis changes the minimum ice weight assumed in the analysis to 993 lb per basket.

The revised containment analysis shows that using an average basket weight of 1,155 lb and a sublimation allowance of 15 percent, all bays would have an average basket weight of 993 lb at the end of the 18-month interval.

The revised analysis utilizes new mass and energy releases (refer to Westinghouse WCAP-10325-P-A [in TVA's submittal]), which substantially delays ice-bed meltout and limits the initial containment peak pressure to approximately 7.15 psig during the blowdown phase. The ice-bed meltout delay allows the second containment pressure peak, which is driven mainly by the decay heat, to be limited to approximately 10.9 psig, which is below the containment design pressure of 12 psig.

Based on TVA's evaluation and the revised containment analysis, TVA considers the reduction of the average basket weight to be acceptable for satisfying the safety function of the ice condenser for the proposed 18-month interval. TVA's extension of the lower inlet door tests to coincide with the 18-month ice weight interval is considered to be acceptable based on the results of previous tests and TVA's change for expanding the 25 percent test sample to include a 100 percent sample. TVA's proposed text change to SRs 4.6.5.1.b, 4.6.5.3.1.b, and 4.6.5.3.2.b is an administrative change that removes previously completed test milestones during the first two years of SQN operation. These requirements are no longer applicable and are being deleted for clarity and to avoid the possibility of confusion. The proposed change[s], therefore, [do] not involve a significant reduction in the margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, based on the above considerations, the Commission has made a proposed determination that the amendment request involves no significant hazards consideration.



The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publication Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to Room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By February 23, 1990, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating license, and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555 and at the Local Public Document Room located at the Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board Panel, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and

how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which the petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, the petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to

present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If a final determination is that the request for amendment involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the request for amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and state comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by toll-free telephone call to Western Union at 1-800-325-6000 (in Missouri 1-800-342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Suzanne C. Black: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear



Regulatory Commission, Washington, DC 20555, and to General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

Nontimely filings of the petition for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or requests, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the TVA application for amendments dated January 12, 1990 (TS 90-05), which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC, 20555, and at the Local Public Document Room located at the Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Dated at Rockville, Maryland, this 18th day of January 1990.

For the Nuclear Regulatory Commission.

Suzanne C. Black,  
Assistant Director for Projects, TVA Projects  
Division, Office of Nuclear Reactor  
Regulation.

[FR Doc. 90-1592 Filed 1-23-90; 8:45 am]

BILLING CODE 7590-01-M

## SECURITIES AND EXCHANGE COMMISSION

### Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142.

Upon Written Request, Copy Available  
From: Securities and Exchange  
Commission, Office of Consumer  
Affairs and Information Services,  
450 Fifth Street NW., Washington,  
DC 20549.

#### Approval:

Form N-1A, File No. 270-21

Rule 31a-1, File No. 270-173

Rule 31a-2, File No. 270-174

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted for OMB approval proposed amendments to Form

N-1A and Rules 31a-1 and 31a-2 under the Investment Company Act of 1940 ("1940 Act").

Form N-1A is the registration statement for use by open-end management investment companies, except small business investment companies and insurance company separate accounts. There are approximately 2,470 registrants using Form N-1A, with an estimated compliance time of 1,055 hours per registrant. The Form N-1A amendments are being proposed in the alternative in order to generate public comment. The maximum burden would be imposed by the first of the two alternative amendments. That proposal would add 4 additional hours to the time necessary for each registrant to comply with the form's requirements.

Rule 31a-1 specifies the accounts, books and other documents that must be maintained and kept current by registered investment companies and certain majority-owned subsidiaries thereof under section 31(a) of the 1940 Act. Rule 31a-2 specifies the time periods for retaining the bookkeeping records which are required by Rule 31a-1. The second of the two amendments to Form N-1A would add approximately 1 additional hour to the time necessary for each recordkeeper (approximately 3,500) to comply with the requirements of each rule.

The estimated average burden hours are made solely for the purposes of the Paperwork Reduction Act, and are not derived from a comprehensive or even representative survey or study of the cost of SEC rules and forms.

Direct general comments to Gary Waxman at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with SEC rules and forms to Kenneth A. Fogash, Deputy Executive Director, Securities, and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549, and Gary Waxman, Clearance Officer, Office of Management and Budget, Paperwork Reduction Project (3235-0307 for Form N-1A, 3235-0178 for Rule 31a-1, and 3235-0179 for Rule 31a-2), Room 3208, NEOB, Washington, DC 20543.

Dated: January 9, 1990.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-1602 Filed 1-23-90; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-27634; File No. SR-CBOE-89-32]

### Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to Cut-off Time for Orders to Receive the Opening Price

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 28, 1989 the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described below. The Commission is publishing this notice to solicit comment on the proposed rule change from interested persons.

The Exchange proposes to incorporate into Interpretation .02 to CBOE Rule 7.4 ("Obligations for Orders") its existing policy regarding the entitlement cut-off time for orders to receive an execution based on opening prices during fast market conditions.<sup>1</sup> The proposal states that in instances where a fast market has been declared in any options class prior to 8:00 a.m.,<sup>2</sup> an order must be time-stamped and placed into the designated order shoe prior to 8:10 a.m. (instead of 8:20 a.m.) in order to be entitled to the opening price. The proposal also reserves the right to the Exchange to set an earlier entitlement cut-off time. In addition, the proposal updates the language in the interpretation to reflect the replacement of board brokers by designated primary market makers. The text of the proposed rule change is as follows (italics indicate addition; deletions are bracketed):

#### Rule 7.4 Obligations for Orders.

(a) through (f) No change.

... Interpretations and Policies:

.01 No change.

.02 [Board Brokers and] Order Book Officials and Designated Primary Market-Makers shall accept orders, including cancels and changes, at the opening on the same time sequence basis as pertains during the balance of the day. However, a [Board Broker or]

<sup>1</sup> The CBOE has the authority to modify the entitlement cut-off time for orders to receive the opening price pursuant to CBOE Rule 8.6(b)(vi) and Interpretation .06 to Rule 7.4.

<sup>2</sup> A fast market may be declared in one or more classes of options contracts by any two floor officials when, because of an influx of orders or other unusual conditions or circumstances, the interest of maintaining a fair and orderly market so requires such a declaration.



Order Book Official or Designated Primary Market-Maker shall not be held for orders accepted during a time interval from five (5) minutes prior to the report of the transaction in an underlying security through the end of the opening rotation in that class of option contracts for execution of such orders at the opening. In the case of S&P 100 options, an Order Book Official shall not be held for orders accepted during a time interval from ten (10) minutes prior to the opening of trading through the end of the opening rotation for execution of such orders at the opening. *In most situations where a Fast Market has been declared in any options class before 8 a.m., an order must be time-stamped and placed into the designated order shoe (accepted) prior to 8:10 a.m. to be entitled to the opening price. However, the Exchange has the authority to set an earlier entitlement cut-off time.*

.03 through .06 No Change.

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder and, in particular, section 6(b)(5) of the Act, which provides, among other things, that the rules of the Exchange are to be designed to promote just and equitable principles of trade and protect investors and the public interest.

As the foregoing rule change is concerned solely with a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing CBOE rule, it has become effective immediately pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b-4 under the Act. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that

may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to File No. SR-CBOE-89-32 and should be submitted by February 14, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 18, 1990.

Jonathan G. Katz,  
Secretary.

[FR Doc. 90-1598 Filed 1-23-90; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-27630; File No. SR-PHLX-89-54]

**Self-Regulatory Organizations;  
Philadelphia Stock Exchange, Inc.;  
Order Approving Proposed Rule  
Change Relating to the Narrowing of  
Certain Options Bid/Ask Differentials**

On November 27, 1989, the Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities exchange of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to narrow the bid-ask differential for certain options quotations.

The proposed rule change was published for comment in Securities Exchange Act Release No. 27507 (December 6, 1989), 54 FR 51100 (December 12, 1989). No comments were received on the proposed rule change.

Currently, Exchange rules provide for a maximum differential of  $\frac{1}{4}$  of \$1 between the bid and the offer for each option contract for which the bid is less than \$1, a maximum differential of  $\frac{1}{2}$  of \$1 where the bid is \$1 or more but less than \$5, a maximum differential of  $\frac{3}{4}$  of \$1 where the bid is \$5 or more but less than \$10, a maximum differential of  $\frac{1}{2}$  of \$1 where the bid is \$10 or more but less than \$20, and a maximum differential of \$1 where the bid is \$20 or more. The Exchange also may establish bid-ask differentials other than the above for individual series or classes of options.

The current proposal provides for a maximum bid-ask differential of  $\frac{1}{4}$  of \$1 for each option contract for which the prevailing bid is less than  $\frac{1}{2}$  of \$1. Each option contract for which the bid is  $\frac{1}{2}$  of \$1 or more but less than \$2, will be subject to a maximum price differential of  $\frac{1}{4}$  of \$1. Therefore, the effect of the proposal is to narrow the maximum allowable bid-ask spread from  $\frac{1}{4}$  of \$1 to  $\frac{1}{2}$  of \$1, for option contracts bid at less than  $\frac{1}{2}$  of \$1, and to narrow the differential from  $\frac{3}{4}$  of \$1 to  $\frac{1}{4}$  of \$1 for option contracts bid between \$1 and less than \$2.

The Exchange believes that the proposed rule change is designed to promote just and equitable principals of trade and protect the investing public.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6.<sup>3</sup> Specifically, with regard to narrowing the maximum allowable bid-ask differential, the Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act in that it will perfect the mechanism of a free and open market by providing improved price continuity and tighter markets to public investors. The Commission believes that all orders, including public customer orders, will benefit from the narrower bid-ask differentials in low priced equity options.

The Commission also notes that the Exchange retains the authority to set bid-ask differentials other than those established above. This allows the Exchange to permit bid-ask differentials to reflect spreads in the underlying securities which may be greater than the maximum allowable options differentials.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,<sup>4</sup> that the proposed rule change (SR-PHLX-89-54) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>5</sup>

Dated: January 18, 1990.

Jonathan G. Katz,  
Secretary.

[FR Doc. 90-1604 Filed 1-23-90; 8:45 am]

BILLING CODE 8010-01-M

<sup>1</sup> 15 U.S.C. 78e(b)(1) (1982).

<sup>2</sup> 17 CFR 240.19b-4 (1989).

<sup>3</sup> 15 U.S.C. 78f (1982).

<sup>4</sup> 15 U.S.C. 78e(b)(2) (1982).

<sup>5</sup> 17 CFR 200.30-3(a)(12) (1989).



[Release No. 34-27631; File No. SR-PSE-27]

**Self-Regulatory Organizations; Pacific Stock Exchange Inc.; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment to Proposed Rule Change Relating to a Lead Market Maker System**

On October 5, 1989, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change that establishes a Lead Market Maker ("LMM") System for certain option classes.

The proposed rule change was published in Securities Exchange Act Release No. 2749 (December 1, 1989), 54 FR 50557.<sup>3</sup> No comments were received on the proposed rule change.

# I. Introduction

The PSE currently employs a competing market maker system for trading options contracts on its floor. The Exchange proposes to amend PSE Rule VI in order to adopt sections 88 and 89 governing the establishment and structure of an LMM System.

The proposed LMM System supplements the standard PSE options trading pit by establishing LMMs for certain options classes. Members appointed as LMMs will assume responsibilities and acquire rights in their appointed options classes beyond the obligations and rights of market makers that trade in the same options class.<sup>4</sup> The Exchange believes that the

LMM System will enhance its ability to compete with the other options exchanges, in general, and in an options multiple trading environment, in particular.<sup>5</sup>

The PSE is proposing the LMM System as an eighteen month pilot program so that the PSE and the Commission will have sufficient time to evaluate the pilot and the PSE will have an opportunity to determine whether to request permanent approval of the program. The Exchange proposes to establish the LMM for certain option classes, primarily new options classes (any options classes offered for trading after January 1, 1990) and current option classes with comparatively low volume (any existing option class whose average monthly volume for the previous six month period ranks it in the bottom 20% of class activity for the PSE Option Floor). Any options class converted to the LMM System would be assigned to a segregated area of the Options Trading Floor.

# II. Operation of LMM System

## a. Duties of the LMM

The PSE proposal requires an LMM to fulfill the basic obligations of a market maker in his appointed LMM option class, as would any member that is a market maker in that option class.<sup>6</sup> In addition to the normal obligations of a market maker, however, the LMM must assume additional obligations designed to strengthen the market making in the designated option classes.<sup>7</sup> The LMM, among other things, is responsible for ensuring the accurate dissemination of market quotations, determining the algorithm for the PSE's Auto-Quote System,<sup>8</sup> assuring that each market quotation is honored consistent with minimum obligations established by Exchange rules, and must participate in applicable automatic execution systems. Moreover, an LMM must be present at the trading post for his LMM-designated options class throughout every trading day. The proposal also requires the LMM, with respect to trading as a market maker, to effect trades that correlate generally with the overall

trading distribution of each series in an option class.

In exchange for assuming these obligations, the proposal permits the LMM to be allocated a 20% participation in transaction occurring in his appointed issues. An LMM's participation in such trades, however, may be greater than 20% as a result of his successful competition by means of "public outcry."

The PSE proposal limits the role of the LMM solely to acting as a market maker, and precludes the LMM from acting as a floor broker. Additionally, the LMM System will not affect the duties of the OBO who is responsible, among other things, to maintain the limit order book for options orders, effect the proper execution of orders placed on the book, display bids and offers, and monitor the market for the classes of options assigned to him.<sup>9</sup> The LMM will not have any knowledge regarding the limit order book that is not available to other market makers in the trading crowd.

## b. Selection and Removal of LMMs

The selection and removal process for LMMs will be conducted by the LMM Appointment Committee ("Committee"). This Committee will be comprised of the Chairman of the Options Appointment Committee, a representative of the Options Floor Trading Committee and nine other members nominated by the Options Floor Governors and appointed by the Board, whose business functions are as follows: six market makers, one floor broker not associated with a member organization that conducts a public customer business, and two individuals associated with member organizations that conduct either a floor brokerage or a public customers business.<sup>10</sup> These nine appointed Committee members will have staggered two-year terms so that four or five members' appointments will expire each year. The PSE expects that the composition of the Committee will assure a balanced approach to the appointment and removal of LMMs.<sup>11</sup>

<sup>1</sup> See PSE Rule VI, section 65.

<sup>2</sup> Any member of the Committee who has a business affiliation with an LMM applicant or who is the subject of deliberation by the Committee with regard to the award or termination of LMM status must recuse himself from all proceedings.

<sup>3</sup> The Committee may perform all the functions of the PSE's Market Performance Committee under Exchange Rules in respect of review and evaluation of the conduct of LMMs in the classes of their LMM appointment, including but not limited to sections 73, 74, 75, 79 of Rule VI and OFPA B-13. These rules address, in order, the definition of market maker, registration of market makers, appointment of market makers, obligations of market makers, and evaluation of options trading crowd performance. The process for review shall be the same as if taken by the Market Performance Committee.

<sup>4</sup> 15 U.S.C. 78s(b)(1) (1982).

<sup>5</sup> 17 CFR 240.19b-4 (1989).

<sup>6</sup> The PSE filed Amendment No. 1 to the proposal with the Commission on December 18, 1989 and requested accelerated approval of File No. SR-PSE-89-27, as amended. Amendment No. 1, among other things, modifies the PSE proposal with respect to LMM financial requirements, the LMM termination and hearing process, and the factors affecting LMM compensation after termination. The PSE proposal, as described in this order, reflects the amended proposal.

<sup>7</sup> The Commission has previously approved a similar pilot program by the Chicago Board Options Exchange Inc. ("CBOE") to enhance its market making capabilities through a Designated Primary Market Maker ("DPM") System. The PSE proposal is more limited in scope, as discussed *infra*, because an LMM, unlike a DPM, does not assume the functions of an Order Book Official ("OBO") or a floor broker. See Securities Exchange Act Release No. 24934 (September 22, 1987), 52 FR 36122. The DPM pilot program was approved initially for two years and recently has been extended for an additional two years. See Securities Exchange Act Release No. 27167 (August 22, 1989), 54 FR 35960.

<sup>8</sup> See Rule 19c-5 under the Act.

<sup>9</sup> Section 79 of PSE Rule VI specifies the obligations of market makers.

<sup>10</sup> The LMM's responsibilities are set forth in proposed Rule VI, section 88(c).

<sup>11</sup> The PSE's Auto-Quote System allows market quotes to be generated systematically, using programmed theoretical models and variables. At present, LMMs, however, will be limited to selecting only two algorithms (Black/Scholes for calls and Cox/Ross/Rubinstein for puts) approved by the Exchange for use in the Pacific Options Exchange Trading System ("POETS").



Any regular member or member organization is eligible for appointment as an LMM. Appointments will be made by the Committee on the basis of its judgment as to the candidate best able to perform the functions of an LMM in the subject options class or classes.<sup>12</sup> Factors to be considered for selection include, but are not limited to: experience with trading the options class, capital adequacy, trading crowd evaluations made pursuant to Options Floor Procedure Advice B-13, willingness to promote the Exchange as a marketplace,<sup>13</sup> operational capacity, support personnel, and history of adherence to Exchange rules and securities laws. In addition, the proposal requires an LMM to possess a cash liquid asset position in the amount of \$100,000 or in an amount sufficient to assume a position of twenty trading units of each security in which the LMM holds an appointment, whichever amount is greater. The Committee also may specify additional conditions on the appointment concerning any representations made in the application process, including, but not limited to, capital, operations, or personnel. Additionally, the final Committee determination regarding the LMM selection for each options class shall include transaction volumes levels, that, if attained, will subject the option to a possible reassignment to the market maker system.

The PSE proposal requires an LMM, after appointment, to inform the Committee promptly of any material change in its financial or operational condition, or personnel. Additionally, an LMM appointment may not be transferred without the approval of the Committee.<sup>14</sup> Once appointed, an LMM

will serve until he is relieved of his obligations by the Committee or resigns after providing ten days notice.

The Committee may, in its discretion, open an options class or classes to a new LMM selection process if, upon review, the Committee determines that an LMM has not performed satisfactorily any condition of his appointment or his designated duties. The Committee also may conduct reviews of LMM appointments at any time, and shall do so at least quarterly. Additionally, the Committee has the discretion to relieve an LMM of his appointment due to a material financial, operational, or personnel change warranting immediate action. If an LMM has been relieved of his appointment or the appointment otherwise becomes vacant, the Committee may appoint an interim LMM pending the conclusion of a new LMM selection process. The appointment of the new LMM selection is not a prejudgment of the outcome of the new LMM selection process.

The proposal also permits the Committee to discontinue the use of an LMM in a particular options class, if it decides that reversion to the usual Exchange market maker system is warranted. More specifically, if certain predetermined levels of trading activity are reached, the Committee may decide to discontinue an LMM in a particular class of options.<sup>15</sup> Alternatively, the Committee may determine, based on all available facts and circumstances, that the trading environment in a particular options class warrants the removal of the LMM.<sup>16</sup> The PSE does not expect that this alternative "fail-safe" provision will be used frequently.<sup>17</sup>

If the Committee decides to terminate an LMM's appointment because an option is trading above established volume levels or the LMM is unnecessary to facilitate trading in the options class, then the Committee shall award compensation to the LMM for a period not to exceed two years. In making this award the Committee will take into account the length of time of LMM service, capital commitment, trading volume in the subject options class, and performance during the LMM appointment.

<sup>12</sup> The LMM, in such instances, shall be required to terminate his appointment ten days subsequent to receiving written notice from the Exchange.

<sup>13</sup> The LMM, in such instances, shall be required to terminate his appointment in no fewer than three business days after receiving written notice from the Exchange.

<sup>14</sup> See letter from letter from Laura Cleveland, Compliance Investigator, PSE, to Howard Kramer, Assistant Director, Division of Market Regulation, dated January 10, 1990 ("PSE Letter").

#### c. Procedure for LMM Removal

The LMM who is the subject of Committee review in conjunction with termination of an LMM appointment will be so advised and provided ten business days in which to submit a written statement for the consideration of the Committee. An LMM relieved of an appointment may seek a review of that decision under the procedures of Exchange Rule XX, section 8.<sup>18</sup> In any situation in which the LMM is relieved of his appointment, the Exchange will provide written reasons for the removal.

#### d. "Chinese Wall" provisions

The PSE proposal contains limitations on dealings by LMMs and "Chinese Wall" procedures to prevent improper activity as a result of LMM affiliations with upstairs firms.<sup>19</sup> Specifically, proposed section 89 precludes any organization affiliated with an LMM from purchasing or selling any option in which such LMM is appointed, except to reduce or liquidate positions after appropriate identification and floor official approval of the transaction. The PSE proposal, however, provides an exemption from section 89 for firms that implement specified "Chinese Wall" procedures.

The "Chinese Wall" guidelines call for (1) separate organization of the LMM and the affiliated firm, including separate books and records, separate financial compliance, no common control over the LMM's conduct, and only such general managerial oversight as not to conflict with or compromise the LMM's market maker responsibilities; and (2) procedures to prevent the use of material non-public corporate or market information to influence the LMM's conduct and to avoid the misuse of LMM market information to influence the affiliated firm's conduct. Under the proposal, the firm seeking the exemption must submit to the Exchange a written statement setting forth: (1) the manner of complying with the foregoing guidelines; (2) the firm individuals responsible for maintenance and surveillance of the procedures; (3) that the LMM may not give special information to a broker affiliated with the firm; (4) that the firm must disclose its affiliation with an LMM if it popularizes a security in which the LMM is registered as such; (5)

<sup>18</sup> Section 8 of Rule XX provides for review of decisions by petitioning the Board of Governors.

<sup>19</sup> The proposed PSE provisions in section 89 are substantially the same as the CBOE "Chinese Wall" provisions approved by the Commission that the CBOE filed in conjunction with its DPM proposal. See Securities Exchange Act Release No. 25151 (November 23, 1987), 52 FR 45417.

<sup>12</sup> Each applicant for appointment as an LMM will be provided an opportunity to present any matter which he wishes the Committee to consider in conjunction with the appointment decision. The Committee may require that the presentation be solely or partially in writing, and may require the submission of additional information from an applicant, member, or any person associated with a member. Formal rules of evidence do not apply to these proceedings.

<sup>13</sup> As the Commission emphasized in the CBOE DPM Approval Order, the selection factor of "willingness of an LMM applicant to promote the Exchange as a marketplace" would not permit the PSE to weigh against a particular firm its activities in other markets. Thus, a firm's decision to route customer orders to another market or make markets in PSE listed options on another exchange would be irrelevant to the PSE's review.

<sup>14</sup> When a member organization is given LMM status in a particular class, the individual who represents the LMM organization waives all rights to the LMM appointment in the event that the individual separates from the member organization.



that the firm will file information and reports required by the Exchange; (6) that appropriate remedial actions will be taken for a breach of procedures; (7) the procedures designed to ensure a separation of firm proprietary clearing activity so that the "chinese wall" is not compromised; and (8) that no individual associated with the firm may trade as market maker in a security on which the LMM has an appointment.

Finally, the proposal requires that the firm compliance officer be notified if the LMM receives information which the guidelines prohibit, and that the compliance officer should determine what action should be taken in such a situation, including giving up the appointment or temporarily providing a replacement LMM. The compliance officer would be required to keep a written record of each such incident, and provide such records to the Exchange for review. No exemption would be effective until granted by the Exchange in writing.

### III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6,<sup>20</sup> and the rules and regulations thereunder.

The Commission previously has approved and extended a similar CBOE pilot program that has operated effectively and generally has been well received. Moreover, the PSE proposal raises fewer regulatory issues than CBOE's DPM pilot because the LMM proposal does not alter significantly the traditional PSE options market structure. Specifically, under the PSE proposal, a member appointed as LMM for an options class undertakes additional obligations, but the OBO's responsibility at the trading post for the LMM-designated options class is not diminished.

Moreover, the Commission believes the PSE proposal contains the advantages and safeguards, similar to those provided in the DPM pilot, that will benefit investors and perfect the mechanism of a free and open market. Specifically, the Commission believes that the LMM pilot: (1) May enhance the market-making mechanism on the PSE, thereby improving the markets for listed options on the Exchange; (2) provides adequate due process safeguards in the LMM selection and termination procedures; and (3) ensures adequate

safeguards against the misuse of material non-public LMM information.

First, the Commission believes that the LMM pilot may improve the PSE's market making capabilities by creating long-term commitments to options classes. It is difficult to attract market makers to low volume options classes, as business practicalities attract market makers to busier posts. An LMM, however, will commit to trading a particular option class and will assume some of the obligations of an option specialist. Among other things, an LMM is subject to a minimum capital requirement, must be present at the trading post throughout the day, and ensure that quotes are honored up to the minimum size established by Exchange rules. The result may be increased depth and liquidity in the markets for various options classes, and a greater flexibility in responding to varying market conditions.

Second, the Commission believes the due process safeguards incorporated into the appointment and removal provisions of the pilot are sufficient. The composition of the Exchange's LMM Committee is balanced between management, market makers, a floor broker and members doing a public customer business. The two year terms of members are staggered to ensure continuity. In this regard the composition of the PSE's committee is consistent with the composition of allocation committees of other exchanges.<sup>21</sup>

LMMs will be selected based on specific factors and will be evaluated based on standards of conduct that are consistent with the ability to uphold their responsibilities.<sup>22</sup> An applicant for an appointment as LMM will be provided an opportunity to present any relevant matter for the Committee to consider in conjunction with the appointment decision. The standards upon which an LMM may be removed are similarly well defined and consistent with upholding the LMM's obligations. Moreover, in most circumstances an LMM will be able to rely on a previously established daily contract volume level to determine when his position will be

terminated in favor of a competitive market making system.<sup>23</sup> Finally, the PSE's proposed procedures provide for full review of appointment and removal decisions under Chapter XX of the PSE rules.

Third, the proposed "Chinese Wall" provisions are designed to ensure that an LMM will not have access to material non-public information possessed by its affiliated firm, and that a firm will not misuse its LMM non-public information.<sup>24</sup> The proposal also includes detailed procedures to be followed in the event that an LMM becomes "contaminated" by gaining access to information meant to be excluded by the "Chinese Wall". Moreover, the Commission notes that the "Chinese Wall" provisions described above are substantially similar to those in place at other exchanges. Finally, the provisions, while fulfilling a prophylactic function, will enable additional capital to be infused into LMM firms through mergers, acquisitions, or other affiliations with other broker-dealers.

The Commission finds good cause for approving those portions of the proposal that were amended by Amendment No. 1 prior to the thirtieth day after the date of publication of the amendment in the Federal Register. The original filing was the subject of a 30-day notice period and the amendment made only minimal changes to the proposal as noticed. In addition, accelerated approval is necessary because the PSE desires to have the LMM System in place before multiple trading of options commences on January 22, 1990. Because of the Commission's view of the benefits that may result from the LMM system, the Commission believes a good cause finding is justified.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing.

<sup>21</sup> The CBOE DPM Appointment Committee has the same basic composition. See also Philadelphia Stock Exchange By-Laws, section 106-7 describing the composition of the Exchange's Allocation, Evaluation and Securities Committee.

<sup>22</sup> Even though the LMM reappointment process is not a disciplinary action, the PSE is obligated to delineate specifically the reasons for relieving an LMM of its appointment in writing. The reasons should be consistent, allowing for variance in the specific conditions attached to a particular LMM's appointment, and should not result in discrimination among PSE members. See Securities Exchange Act Release No. 15827 (May 15, 1979) 44 FR 29779.

<sup>23</sup> An exception to this could occur if the Exchange determined, "considering all the facts and circumstances," that trading in a particular option class would be better accommodated by introduction of a competitive market maker system without an LMM. The Commission understands that this provision is a "fail-safe" clause to deal with unforeseen circumstances and that the PSE does not expect to invoke this cause frequently. In view of these representations, as well as the fact that termination of LMM trading is subject to further review procedures, the Commission believes it is appropriate for the PSE to reserve such authority during the pilot. The CBOE has a similar provision in its DPM pilot program and the provision has not been invoked since the pilot program commenced in September 1987.

<sup>24</sup> Because the OBO, rather than the LMM, controls the limit order book, the amount of non-public information that an LMM will have is reduced. Nevertheless, such provisions are valuable in ensuring the integrity of the LMM System.

<sup>20</sup> 15 U.S.C. 78f (1982).



Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the PSE. All submission should refer to file number SR-PSE-89-27, and should be submitted by February 14, 1990.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,<sup>25</sup> that the proposed rule change (SR-PSE-89-27) hereby is, approved on a pilot basis, until July 31, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>26</sup>

Dated: January 17, 1990.

Jonathan G. Katz,  
Secretary.

[FR Doc. 90-1599 Filed 1-23-90; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-27621; File No. SR-Phlx-89-50]

#### Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to Crossing, Facilitation, and Solicited Orders

On October 10, 1989, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend Exchange Rule 1064 to provide procedures for the execution of facilitation and solicited options orders on the Exchange.<sup>3</sup>

The proposed rule change was noticed in Securities Exchange Act Release No. 27415 (November 2, 1989), 54 FR 47006 (November 8, 1989). No comments were received on the proposed rule change.

Pursuant to the proposed rule change, a floor broker holding an options order for a public customer and a contraside order may execute such orders as a facilitation cross. In order to facilitate the cross a floor broker first must record a legible "F" on the floor ticket for the public customer's order, in addition to all of the terms of the order (including any contingency involving other options or the underlying or related securities). A floor broker then must request markets for the execution of all options components of the order. After providing an opportunity for such markets to be made, the floor broker must announce that he holds an order subject to facilitation,<sup>4</sup> and then bid (offer) in between the market for each options component.<sup>5</sup> Immediately after all market participants in the crowd are provided a reasonable opportunity to accept the bid (offer) made on behalf of the public customer, the floor broker may cross all or any remaining part of such order and the facilitation order at each customer's bid or offer by announcing to the trading crowd that he is crossing the orders, and by stating the quantity and price of the order being crossed.

The proposed rule change also defines solicited orders. A solicited order is defined as an order, other than a cross, presented for execution in the trading crowd as a result of an away-from-the-crowd expression of interest by one broker-dealer to another. If a member appears in a trading crowd in response to a solicitation, other trading crowd participants must be provided a reasonable opportunity to respond to the order. Therefore, Rule 1064 provides that, before a solicited member may respond to the order, he or his representative must provide the other trading crowd participants with all of the information that was provided to the solicited member (e.g., information concerning a related stock order).

According to the Phlx, the proposed rule change is consistent with section

6(b)(5) of the Act<sup>6</sup> because it is designed to promote the mechanism of a free and open market and to protect investors and the public interest by providing a means for member firms to take the other side of (facilitate) customer options orders. Specifically, the Phlx believes that the proposed rule change will provide for the execution of options order at better prices, or in greater size, than otherwise would be available on the Phlx options floor. The Phlx also believes that the design of the proposed rule change will ensure that member firms executing facilitation orders will be shielded from having their side of the trade taken by traders on the floor while leaving customer orders unexecuted. In addition, the Phlx states that the portion of the proposed rule change concerning solicited orders is designed to address situations where two traders meet in a trading crowd and quickly accept the other's bid or offer without providing a reasonable opportunity for participation by other members of the trading crowd.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5) and the rules and regulations thereunder.

Specifically, the Commission believes that the proposed rule change will benefit public customers by increasing the number of opportunities for Phlx floor brokers to execute facilitation crosses, thereby enabling public customers (especially those with large options orders) to receive executions on orders which otherwise may not have been executable, or executable at a greater cost. In addition, by requiring a reasonable opportunity for crowd participation before the execution of facilitation or solicited orders, the proposed rule change should help ensure that public customer orders are executed at the best possible price. Moreover, the proposed rules governing solicited trades should help prevent "whispered" trades or prearranged trades. The Commission also believes that the proposed rule change will benefit member firms by allowing them to facilitate customer orders in crossing transactions without exposing their own capital to market risk. Finally, the Commission previously approved substantially similar proposed rule

<sup>25</sup> 15 U.S.C. 78s(b)(2) (1982).

<sup>26</sup> 17 CFR. 200.30-3(a)(12) (1989).

<sup>1</sup> 15 U.S.C. 78s(b)(1) (1982).

<sup>2</sup> 17 CFR 240.19b-4 (1989).

<sup>3</sup> Originally, the proposed rule change only applied to the crossing of facilitation and solicited equity and index options orders on the Exchange's floor. On November 14, 1989, however, the Phlx amended its filing to apply the proposed rule change to foreign currency options orders as well. See

Letter from Murray L. Ross, Secretary, Phlx, to Ivan Davis, Staff Attorney, Division of Market Regulation, SEC, dated November 14, 1989.

<sup>4</sup> In announcing that he holds an order subject to facilitation the floor broker must disclose all terms and conditions of the order, including all securities which are components of the order.

<sup>5</sup> Once a floor broker announces that an order is subject to facilitation and establishes a bid (offer) in between the market for the options to be facilitated, the order cannot be broken up by a subsequent superior bid or offer for just one component of the facilitated order.

<sup>6</sup> 15 U.S.C. 78f(b)(5) (1982).



changes submitted by other options exchanges.<sup>7</sup>

It is therefore ordered, pursuant to section 19(b)(2), of the Act,<sup>8</sup> that the proposed rule change (SR-Phlx-89-50) be, and thereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

Dated: January 16, 1990.

Jonathan G. Katz,  
Secretary.

[FR Doc. 90-1601 Filed 1-23-90; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-27633; File No. SR-PSE-89-26]

# Self-Regulatory Organizations; Pacific Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to the Implementation of a Pilot Program of the Pacific Options Exchange Trading System

## I. Introduction and Background

On October 6, 1989, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to conduct a six-month pilot program of an automated options trading system designated as the Pacific Options Exchange Trading System ("POETS"), in all equity options classes at two trading posts and any option which becomes multiply traded.<sup>3</sup>

The proposed rule change was noticed in Securities Exchange Act Release No. 27423 (November 6, 1989), 54 FR 47434 (November 14, 1989). No comments were received on the proposed rule change.

<sup>1</sup> See Securities Exchange Act Release Nos. 27345 (October 6, 1989), 54 FR 42612; 22691 (December 5, 1985), 50 FR 50881; and 22273 (July 29, 1985), 50 FR 31449 (approving proposed rule changes by the New York Stock Exchange, the American Stock Exchange, and the Chicago Board Options Exchange, respectively).

<sup>2</sup> 15 U.S.C. 78s(b)(2) (1982).

<sup>3</sup> 17 UFR 200.30-3(a)(12) (1989).

<sup>4</sup> 15 U.S.C. 78s(b)(1) (1982).

<sup>5</sup> 17 CFR 240.19b-4 (1989).

<sup>6</sup> On December 15, 1989, the Commission approved the implementation of POETS in one equity options class from December 18 to December 31, 1989. Subsequently, the Commission expanded the partial pilot program to include two additional equity options classes and extended the partial pilot through January 12, 1990. See letters from Steven W. Lazarus, Staff Attorney, PSE, to Thomas R. Gira, Branch Chief, Division of Market Regulation ("Division"), SEC, dated December 14 and 22, 1989, and Ivan D. Davis, Staff Attorney, Division, SEC, dated December 29, 1989.

## II. Description of the Proposal

POETS is a completely automated trading system comprised of an options order routing system ("ORS"), an automatic and semi-automatic execution system ("Auto-Ex"), an on-line limit order book system ("Auto-Book"), and an automatic market quote update system ("Auto-Quote").

### ORS

ORS will be available to all members of the Exchange. ORS will permit the Exchange to accept, edit, and route market<sup>4</sup> and limit orders,<sup>5</sup> electronically submitted to the Exchange by member firms, for execution at market prices or placement in the public Limit Order Book ("Book"). ORS also will provide for the cancellation of orders previously submitted. In addition, status requests will be available through ORS.

Orders entered through ORS may be delivered to either Auto-Ex, Auto-Book, or a member firm's default destination.<sup>6</sup> All eligible market orders and marketable limit orders<sup>7</sup> received by ORS will be directed to Auto-Ex. In determining the eligibility of an order for routing to Auto-Ex, ORS will utilize order size, class, and series parameters. The order size parameter can be changed on an issue-by-issue basis by authorized Exchange staff pursuant to an Options Floor Trading Committee ("OFTC") determination. It is expected, however, that one order size will be utilized floorwide.

All non-marketable limit orders will be directed to Auto-Book. Auto-Book will prioritize the orders in the on-line book based upon limit price and time received within each series, with separate priority for buy and sell orders. In order to be eligible for Auto-Book an order must be for a member firm's customer's account, and the order must

<sup>4</sup> A market order is an order to buy or sell a stated amount of a security at the most advantageous price obtainable after the order is represented in the trading crowd.

<sup>5</sup> A limit is an order to buy or sell a stated amount of a security at a specified price.

<sup>6</sup> A firm's default destination can be either a particular firm booth or a remote entry site, to which order that fail to meet the eligibility criteria necessary for either Auto-Ex or Auto-Book will be delivered. Firms may specify only one default destination for their orders. Orders that are rejected due to errors in the technical format of the data will not be routed to a firm's default destination, while orders that are rejected due to "unknown" issues or unaccepted order types will be routed to the default destination.

<sup>7</sup> A marketable limit order is an order to buy or sell a stated amount of a security at a specified price, and is entered at a time when the market is trading at or better than the specified price.

meet certain size requirements determined by the OFTC.<sup>8</sup>

Once ORS determines the appropriate destination for an order, it will route the order/report to the appropriate file. After an order has been processed by either Auto-Ex or Auto-Book, a response/report will be sent through ORS. These responses will be received for: (1) All Auto-Ex and Auto-Book executions and cancellations during the trading day; (2) status reports; and (3) other types of generated status updates (e.g., "Nothing done" and "Day" orders entered in the Book). ORS will, in turn, route a report/response to the appropriate member firm office for each response message it receives.

In addition to making routing decisions, ORS will monitor the files to which it directs orders. If the files exceed established size thresholds, ORS may begin rerouting the order to a back-up terminal on the Exchange's trading floor and/or disseminate system messages. For Auto-Ex files, system warning messages will be generated to the PSE's Control Room when ORS recognizes that a file is exceeding a threshold. Messages for semi-Auto-Ex files will be sent to the screen at the post where the particular issue is traded. Orders will be rerouted from a full Auto-Ex to a semi-Auto-Ex file if the series eligibility is changed, and vice versa. Orders will not be sent to member printers unless the Auto-Ex eligibility is turned off on either a series-by-series, issue-by-issue, or floorwide basis.

### Auto-Ex

When an order is determined to be Auto-Ex eligible it will be sent to either full Auto-Ex, which will operate without manual intervention, or semi-Auto-Ex, which will provide for crowd interaction, and will involve entry and/or confirmation by Book staff.

### Full Auto-Ex

In full Auto-Ex mode an incoming eligible market or marketable limit order will be priced and executed automatically at the displayed market bid or offer. A participating market maker will be designated as contra-side to an Auto-Ex order.<sup>9</sup> Participating

<sup>8</sup> Like Auto-Ex, size criteria for Auto-Book will be changeable on an issue-by-issue basis.

<sup>9</sup> Any Exchange member who is a registered market maker acting in the capacity of either an individual market maker or a joint account participant is eligible to be logged onto Auto-Ex as a contra-broker. Market makers must be in the trading crowd when signed onto Auto-Ex. A market maker must be logged off the system when leaving the trading crowd, except if it is for a short time. Any market maker logging onto the system for a

Continued



market makers will be assigned by Auto-Ex on a rotating basis, with the first market maker selected at random from the list of signed-on market makers. Auto-Ex, however, will preserve Book priority in all options.<sup>10</sup> If there is inadequate Auto-Ex participation in a particular options class, the OFTC or two floor officials may require market makers who are members of the trading crowd to log onto Auto-Ex, while present in the crowd, absent reasonable justification or excuse for non-participation.<sup>11</sup> Failure of a member to meet its obligations may subject him to disciplinary and/or remedial action by the Exchange.

If Auto-Ex determines that the Book price is at or better than the market quote, the Auto-Ex order will be executed against the Book. Auto-Ex will insert the firm symbols from each of the orders as the contra-side of the trade, and will substitute the Book symbol as the executing member. If there is an imbalance between the contract amount of the Auto-Ex order and the booked order(s), the smaller of the two will be completely filled, and the remainder of the larger side will be placed back into its respective file, in its previous priority. If the booked order(s) is larger, the trading crowd screen<sup>12</sup> will be updated to reflect the draw-down on the Book. If the market order is the larger, the remainder will be executed against the market maker rotation list at the same market price used for execution against the Book order (even if the market has moved).

particular options class during an expiration month must log onto the system in that options class whenever he is in the trading crowd, until the next expiration.

<sup>10</sup> Under normal market conditions, orders entered into Auto-Book via ORS and orders placed with an Order Book Official for manual entry into Auto-Book will receive priority over other bids or offers at an inferior price. During fast market conditions, however, as determined by the chairman of the Exchange or his nominee, an order will not gain time priority until it is entered into the system. Once orders have been placed electronically into the system, book priority will be maintained at all times under Auto-Ex.

<sup>11</sup> If inadequate Auto-Ex participation persists, the OFTC may open Auto-Ex on a floorwide basis, thereby permitting any market maker on the Exchange's floor to log onto the system. See letter from Steven W. Lazarous, Staff Attorney, PSE, to Thomas R. Cira, Branch Chief, Division SED, dated January 17, 1989 ("PSE Participation Letter").

<sup>12</sup> A monitor that displays Auto-Ex trades as they are executed and market maker rotation updates and they occur is provided above each Book station. This monitor will alert market makers who are signed up for Auto-Ex rotation to trades that are being assigned to them (through either full or semi-Auto-Ex) and also will provide market makers with verification of rotation sign-ups and sign-offs. In addition, the Auto-Ex overhead display will provide information on semi-Auto-Ex trades that were executed against the trading crowd.

## Semi-Auto-Ex

The OFTC will have the discretion to initiate semi-Auto-Ex in an eligible options class or classes. Any decision to initiate semi-Auto-Ex, or switch from full Auto-Ex to semi-Auto-Ex, will be predicated upon an assessment of the conditions in the trading crowd. In particular, the OFTC will consider, among other things: (1) The volume of broker orders entering the crowd; (2) the number of booked orders; (3) the number of market makers "on" and "off" the automatic execution system; and (4) market conditions (e.g., fast markets, general order volume, etc.).<sup>13</sup> The OFTC will retain the ability to effect such mode changes at any time.

When the semi-Auto-Ex function is utilized, an order entered into ORS will be delivered to Book staff. Upon receipt of the order, Book staff will call for a market in the particular options class and series. If a market maker betters the market, the Book staff may execute the trade with the market maker or allocate the trade among market makers. If no one in the crowd updates the displayed market quote, Book staff may execute the trade against the screen<sup>14</sup> using the market maker rotation list. If the crowd updates the market and the correct best book quote is at or better than the market, Book staff will execute the trade between the semi-Auto-Ex order and the booked order. All orders in the semi-Auto-Ex files can be cancelled in the same manner as in full Auto-Ex.

## Auto-Book

The on-line book function of POETS will eliminate the use of the physical file of orders. Auto-Book will provide Book staff with the ability to enter, update, inquire, delete, cancel, and execute Book orders. Auto-Book also will provide member firms with the ability to enter, cancel, update, and inquire against their own Book orders. Book staff will access Auto-Book for a specific series. Open buy orders are displayed first, followed by open sell orders. Auto-Book also will display automatically the total number of contracts per limit price for open Book orders in a specific option series.

The eligibility requirements for Auto-Book will remain the same as for the manual Book. Thus, only customer limit and cabinet orders<sup>15</sup> may be submitted to the Book.

<sup>13</sup> See Letter from David P. Semak, Vice President, Regulation, PSE, to Thomas R. Cira, Branch Chief, Division, SEC, dated December 8, 1989.

<sup>14</sup> See note 12 *supra*.

<sup>15</sup> Cabinet orders are off-board transactions that are normally utilized to permit an investor to close out his position for one dollar per contract. An

A member firm may enter its orders to the Book through ORS, Book staff, or the Member Book function. The Member Book function allows a member firm to: (1) Enter an order from its booth as the order is received; (2) inquire against their own Book activity; and (3) cancel orders and confirm outstanding good-until-cancelled orders. Once an order is entered into the Book, a unique identifier will be assigned to the order. If the order is entered by Book staff, the order ticket will be returned to the firm at the time of entry, with the unique identifier written on the ticket and a notation if optional data was not keyed into the system.

When new orders are entered by Auto-Book staff, member firm staff, or ORS, the system will verify the current best Book bid/ask for the series, and automatically will update the Book bid/ask and size if the limit price entered is at or better than the best bid/ask resting on the Book. Incoming orders received at the post for manual entry into Auto-Book will be processed in the order in which they are received.<sup>16</sup> Even if limit orders are entered manually into Auto-Book, they will still retain their true priority because all orders are timestamped (and this information is input into the system) and the system queues orders based on price and time.

Auto-Book automatically will compare the market bid/ask field to the Book bid/ask whenever the current market quote or Book quote changes for a specific series. When the Book bid/ask is at or better than the market the system will signal to both the trading crowd and Book staff that there is a customer trade that should be given priority. The booked order then will be executed automatically against the displayed market quote.<sup>17</sup>

## Auto-Quote

Auto-quote allows market quotes to be generated systematically, using programmed theoretical models and variable criteria which are entered through the Auto-Quote function by Book staff.<sup>18</sup> Market quotes are entered into the trading system, and used to update the screen information on the monitors above the trading floor. Market

administrative message automatically will be generated to the Options Price Reporting Authority ("OPRA") by POETS for cabinet trades after trading hours.

<sup>16</sup> See PSE Participation Letter, *supra* note 11 at 2.

<sup>17</sup> See Auto-Ex discussion *supra*.

<sup>18</sup> The initial implementation of Auto-Quote will include only one variation of the Cox/Ross/Rubinstein model to be used for puts, and the Black-Scholes models for calls. As the pilot progresses, other models and additional variations on each model will be reviewed.



quote updates also generate records that are delivered to OPRA for dissemination to the public.

Auto-Quote will be used by Book staff at the direction of the trading crowd. Auto-Quote generation will be initiated separately for each option class, and quotes will be generated and updated at the series level. Auto-Quote may be turned on or off on either a per issue or floorwide basis. In addition, POETS will have the ability to flag each series within an options issue as eligible or ineligible for Auto-Quote, similar to the eligibility criteria for Auto-Ex.

The Exchange believes that the proposed rule change is consistent with the purposes of the Act, and, in particular, section 6(b)(5) thereof, because the proposal offers the potential for improving the accuracy, reporting, and handling of small public customer orders, booked orders, and market quotes. The Exchange also believes that the flexibility of POETS to switch between full Auto-Ex and semi-Auto-Ex modes will contribute to the maintenance of fair and orderly markets by ensuring full crowd participation and faster order turnaround times. In addition, as explained more fully below, the Exchange does not foresee any significant taxing of the Exchange's other automated systems (e.g., SCOREX) if the Commission approves the implementation of POETS on a pilot basis.<sup>19</sup>

### III. Discussion

The Commission finds that the proposed rule change to implement, on a six-month pilot basis, the automatic execution features of POETS at two trading posts and for any option which becomes multiply traded, and the other automatic features of POETS on a floorwide basis, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of sections 6<sup>20</sup> and 11A<sup>21</sup> and the rules and regulations thereunder.

In general, the Commission believes that establishing an options order routing system on the PSE should benefit public customers and PSE member firms. Specifically, the proposed order routing system should reduce the paperwork burden on member firms by:

- (1) Enabling member firms to route

electronically small public customer market and limit orders directly to the Exchange's options trading floor; and (2) generating automated fill-reports to the member firm's location. In addition, by automating the processing of market and limit orders, all parties to the trade are likely to benefit from the enhanced accuracy and timeliness of the price reports and trade comparison process. Moreover, automated order routing will enhance the accuracy of the PSE's audit trail, which in turn should help increase the effectiveness of PSE surveillance procedures in detecting trading abuses on the Exchange's options floor.

The Commission also believes that the automatic execution and on-line Book features of POETS are consistent with sections 6(b)(5) and 11A of the Act because they will offer public customers a more efficient method of executing small market and limit orders in PSE equity options.<sup>22</sup> With POETS, public customers and retail firms will have the benefit of receiving immediate executions and nearly instantaneous confirmations.

POETS will reduce the number of transactions that require manual execution on the Exchange floor, thereby providing the opportunity for increased efficiency in the handling of non-POETS orders, especially large orders where floor broker intervention is more likely to be necessary. In addition, POETS also could increase market maker efficiency, especially on peak volume days, because market makers no longer will be required to enter manually trade confirmation data into the system when the full Auto-Ex feature is in effect.

The automatic execution feature of POETS also likely will benefit public customers because the system provides that the price of a POETS order will be guaranteed at the displayed market quote. Moreover, the interfacing of Auto-Ex and Auto-Book should ensure the priority and protection of public customer limit orders on the Book, thereby fostering the Act's mandate to protect investors and the public interest. Finally, the ability of POETS to switch between full Auto-Ex and semi-Auto-Ex should ensure full crowd participation

and faster order turnaround times. In sum, the Commission believes that the immediacy and certainty of order execution obtained through the Auto-Ex and semi-Auto-Ex features of POETS, coupled with the efficiency and accuracy of order processing provided by POETS, will contribute to more deep and liquid options markets on the PSE.

The Commission also believes that the Auto-Quote feature of POETS is consistent with sections 6(b)(5) and 11A of the Act because it will ensure that PSE options quotes accurately reflect the market conditions of particular options series. In addition, by automatically and systematically generating market quotes, using programmed theoretical models and variable criteria, the Auto-Quote feature of POETS should help reduce premium pricing and bid/ask spread problems associated with extremely volatile markets like those experienced in October, 1987.<sup>23</sup> Moreover, because Auto-Quote requires that a history of all market quote updates be maintained for all options series and made available throughout any trading day, the Auto-Quote feature of POETS should enhance the development of more accurate and timely PSE audit trails.

The Commission previously has recommended that options exchanges ensure that their automated systems remain operational during periods of market volatility and volume surges, as well as during normal periods. To this end, the PSE has developed the POETS system assuming a capacity requirement consistent with "record" PSE volume.<sup>24</sup> In addition, the PSE has represented to the Commission that POETS: (1) Will be able to function at reasonably anticipated volume levels; (2) will be able to handle sustained volume surges by either giving priority to trading functions on the systems, or utilizing a back-up system for production when necessary; (3) will not impact in any way the functioning of other PSE automated systems (e.g., SCOREX) because there is no connection between POETS and other PSE trading systems; and (4) is secured from unauthorized access because all users will be assigned a unique sign-on identification password and each order entered into

<sup>19</sup> See Letter from Ronald L. Hogan, Vice President, San Francisco Development, PSE, to Howard L. Kramer, Assistant Director, Division, SEC, dated December 5, 1989 ("PSE Capacity Letter").

<sup>20</sup> 15 U.S.C. 76f (1982).

<sup>21</sup> 15 U.S.C. 78k-1 (1982).

<sup>22</sup> Consistent with PSE Rule VI, section 87, however, the OPTC may not increase the size of orders eligible for automatic execution through Auto-Ex or semi-Auto-Ex above ten contracts. In the event the PSE elects to increase the size of orders eligible for automatic execution above ten contracts, or modify the types of orders that are eligible for automatic execution and/or other POETS' systems, the Exchange must file a proposed rule change with the Commission pursuant to section 19(b)(1) of the Act.

<sup>23</sup> See Division of Market Regulation, The October 1987 Market Break (February 2, 1988) at 8-11 through 8-17. The Commission understands that the proliferation of options quotes generated by the use of automatic quotation systems may strain the operational capacity of some securities information vendors. The Commission continues to work closely with vendors on an ongoing basis to address and alleviate these capacity concerns.

<sup>24</sup> See PSE Capacity Letter, *supra* note 18, at 2.



the system will be checked to ensure that the correct firm identification is present on all orders.<sup>25</sup> Therefore, given the PSE's representations, the Commission is reasonably confident that the POETS system will be able to function during extreme market conditions.<sup>26</sup>

In addition to operational and system configuration concerns the Commission has had with automated execution systems, the Commission also has recommended previously that the self-regulatory organizations take steps to ensure adequate market maker participation in their systems. In this regard, the PSE has designed the POETS automatic execution system so that it will be operational at all times after opening rotation, except for rare exceptional circumstances. First, the system has built-in market maker participation, in that the market makers are the system's contra-brokers, unless the Book or crowd quote represents the displayed quote. Second, the PSE has imposed requirements to ensure adequate market maker participation. In particular, any market maker logging onto the system for a particular options class during an expiration month must log onto the system in that options class whenever he is in the trading crowd, until the next expiration. In addition, if at any time there is inadequate participation in a particular options class, the OFTC may require market makers who are members of a trading crowd to log onto Auto-Ex absent reasonable justification or excuse for non-participation. The PSE may pursue either disciplinary or remedial action against any member that does not comply with these requirements. Therefore, the proposed rule change should ensure that the automatic execution feature of POETS will be available in all but the most exceptional circumstances.

#### IV. Conclusion

Based upon the aforementioned factors, the Commission finds that the proposed rule change to operate, on a six-month pilot basis, the automatic execution features of POETS at two trading posts and for any option which becomes multiply traded, and the other

automatic features of POETS on a floorwide basis, is consistent with the requirements of sections 6 and 11A of the Act and the rules and regulations thereunder.

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act,<sup>27</sup> that the proposed rule change (SR-PSE-89-26) be, and hereby is, approved on a six-month pilot basis, until July 22, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>28</sup>

Dated: January 18, 1990.

Jonathan G. Katz,  
Secretary.

[FR Doc. 90-1607 Filed 1-23-90; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-27629; File No. SR-PHLX-90-01]

#### Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by Philadelphia Stock Exchange, Inc. Relating to Order and Decorum Rules

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 8, 1990, the Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the following regulations regarding order and decorum on the exchange floor pursuant to Exchange Rule 60.<sup>1</sup> [Additions italicized; deletions bracketed.]

#### Regulation 7—Proper Utilization of the Security System

##### Regulation 8

a. Attempts to Circumvent the Security System of the Exchange: It is strictly prohibited for any member/participant or employee of a member/

participant firm to attempt to circumvent the security system of the Exchange.

1st Occurrence: \$250

2nd Occurrence: \$500

3rd and thereafter: Sanctions are discretionary with the Business Conduct Committee

#### Regulation 7

b. Required Filing for Floor Member Firm Employee [Termination] Status Notices with the Exchange: Following the termination of, or the initiation of a change in the trading status of any employee of a member/participant firm who has been issued an Exchange access card and trading floor badge, a completed "[Termination] Status Notice" must be submitted to the Director of Regulatory Services of the Exchange as soon as possible, but no later than 9:30 A.M. on the next business day by the member/participant firm employer. Further, every effort should be made to obtain the terminated employee's access card and trading floor badge and to submit these to the Security Department.

1st Occurrence: \$100

2nd Occurrence: \$200

3rd Occurrence: Sanctions are discretionary with the Business Conduct Committee

#### Regulation 9

c. Required Filing for the [Commencement or] Termination of, or the Initiation of a Change in the Status of a Business Relationship between Members/Participants and their Clearing Organizations: Following the [commencement or] termination of or initiation of a change in the status of a clearing arrangement between members/participants and their clearing organization, a completed "Clearing Arrangement Notice" must be submitted to the Director of Regulatory Services of the exchange as soon as possible, but no later than 9:30 A.M. the next business day by such clearing organization.

1st Occurrence \$100

2nd Occurrence \$200

3rd Occurrence Sanctions are discretionary with the Business Conduct Committee

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has

<sup>25</sup> *Id.* at 2-3.

<sup>26</sup> Should the PSE decide to expand the pilot after the six-month period, the Exchange must submit a filing pursuant to section 19(b)(1) of the Act for Commission approval. In addition, the Commission recommends that the PSE, or an independent auditor hired by the PSE, conduct periodic stress tests of the system during the pilot period, and prepare a report, for Commission review, detailing any tests conducted by the time the Exchange proposes to expand the pilot.

<sup>27</sup> 15 U.S.C. 78s(b)(2) (1982).

<sup>28</sup> 17 CFR 200.30 3(a)(12) (1989).

<sup>1</sup> These regulations were approved recently by the Commission. See Securities Exchange Act Release No. 27416 (November 2, 1989), 54 FR 47007 (approving File No. SR-PHLX-89-49).



prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change.*

The current regulations were designed to carry out and enforce the order and decorum provision set forth in Exchange Rule 60 by assisting the Exchange in implementing its new card key access/security system.<sup>2</sup> The current regulations allow the Exchange to keep track of active floor members and clerical employees while controlling unauthorized access to the trading floor by removing access cards and trading badges from terminated floor personnel.

Even though the Exchange believes that the current regulations have been effective, it believes that they are not expansive enough to accomplish the full objectives of the system. As originally drafted, the Exchange must be notified of a floor member/participant's or clerk's termination of employment or termination of clearing arrangement. There exist, however, changes to a person's responsibilities or the status of a person's employment or clearing arrangement that would require the loss of or amendment to a person's access card or floor badge. For instance, an employee's responsibilities could change so that he is no longer employed on the trading floor, or a change in his trading capacity could warrant either the removal of or amendment to the information on the badge. Similarly, clearing arrangements could change as in the case of the opening of a different clearing account without the termination of the relationship with the clearing firm.

Under the current regulations, any changes other than actual terminations would not require notice to the Exchange. Accordingly, the proposed rule change merely expands the current regulations to include notice of all status changes, as opposed to notice of terminations only, to assure that all access cards are validly distributed and that all trading badges display correct information.

Additionally, the Exchange proposes that the three regulations currently set forth the Exchange Rule 60 be presented as one regulation since they all relate to one specific problem being addressed by the Exchange.

The proposed rule change is based on section 6(b)(5) of the Act in that it is designed to further promote the

mechanism of a free and open market and to protect investors and the public interest. Additionally, the proposed rule change is consistent with, and is an implementation of, PHLX Rule 60.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The proposed rule change will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others*

No written comments were solicited or received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing rule is concerned solely with the administration of the Exchange, it has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PHLX. All submissions should refer to File No. SR-PHLX-90-01 and should be submitted by February 14, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 16, 1990.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-1600 Filed 1-23-90; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-27625; File No. SR-MSE-89-10]

**Self-Regulatory Organizations; Midwest Stock Exchange, Inc., Order Approving Proposed Rule Change Relating to Board of Governors Liability**

On December 4, 1989, the Midwest Stock Exchange ("MSE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend Article 11 of the MSE Certificate of Incorporation and Article X, section 1 of the MSE Constitution to allow for an exemption from monetary damages for breach of fiduciary duty by a Governor to the Exchange. In addition, the proposed rule change would add Article XVIII, Rule 1 to the Rules of the Board of Governors in order to limit the exemption from monetary damages to those situations not involving a violation of federal securities laws.

The proposed rule change was noticed in Securities Exchange Act Release No. 27522 (December 7, 1989), 54 FR 51535 (December 15, 1989). No comments were received on the proposal.

The proposed rule change would amend Article 11 of the Exchange's Certificate of Incorporation, and Article X, section 1 of the MSE's Constitution, both which apply to indemnification from liability for members of the Exchange's Board of Governors and members of committees of the Exchange, as well as for officers and agents of the MSE. The proposed amendments would exempt the members of the Board of Governors, to the fullest extent permitted by Delaware law, from liability from monetary damages for breach of fiduciary duty. The proposed amendments to the Constitution and Certificate of Incorporation also provide that no future amendment to or repeal of this proposed rule change will apply retroactively to any Governor of the Exchange.

<sup>1</sup> 15 U.S.C. 78s(b)(1) (1982).

<sup>2</sup> 17 CFR 240.19b-4 (1989).

<sup>\*</sup> See note 1, *supra*.



In addition, the proposed rule change adds Article XVIII, Rule 1 to the MSE Rules, which provides a limitation to the applicability of the proposed rule change to the Certificate of Incorporation and Constitution by excluding from the proposed liability exemption those cases where the liability arose, directly or indirectly, as a result of a violation of federal securities laws.<sup>3</sup>

Because the MSE is incorporated in the state of Delaware, the Exchange based the proposed amendment to the Certificate of Incorporation and Constitution on a 1986 amendment to section 102(b)(7) of the Delaware Corporations Code.<sup>4</sup> Under that provision, as amended, corporations incorporated under the laws of Delaware are permitted to include in their certificate of incorporation and constitution a provision limiting or eliminating the personal liability of a director to the corporation or its shareholders for monetary damages for breach of his or her fiduciary duty as a director. The Delaware statute does not permit the limitation or elimination of a director's liability under the following circumstances: A breach of the director's duty of loyalty to the corporation or its stockholders; acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of the law; or any transaction from which the director derived an improper personal benefit. Moreover, the Delaware statute does not permit the adoption of any provision that would eliminate or limit the liability of a director for any act or omission occurring prior to the date when such provision becomes effective.

The Delaware statute does not eliminate a director's fiduciary duty but rather prevents the imposition of monetary damages in the event of a breach of that duty. Other legal remedies for breach of fiduciary duty, such as rescission and injunction, remain available under the Delaware provision. In addition, the MSE has proposed new Article XVIII, Rule 1, which would exclude violations of the federal securities laws from the liability limitation.

The Commission believes that the proposed rule change is consistent with the requirements of the Act and, accordingly, has determined that it should be approved.<sup>5</sup> In reaching this

determination, the Commission has considered the potential impact that the proposed rule change, if approved, would have on the special role and responsibilities of the Board of Governors of a registered national securities exchange under the Act. The Board of Governors of a national securities exchange has a crucial role in insuring that the exchange meets its responsibilities as a self-regulatory organization under the Act.<sup>6</sup> In view of this, the MSE's proposal was limited so that the exemption from monetary damages would not be available where liability was based, directly or indirectly, on a violation of the federal securities laws.

At the same time, the Commission recognizes that national securities exchanges, such as the MSE, are incorporated under state law and, as such, are generally entitled to take advantage of provisions under state corporation codes to the extent they are consistent with the federal securities laws. The proposed rule change adequately balances the need to retain the special responsibilities of directors of national securities exchanges with the desire of the Exchange to adopt state law provisions pertaining to its corporate structure. The rule change allows the Exchange to take advantage of section 102(b)(7) of the Delaware Corporations Code as would any other organization incorporated in Delaware, except where the imposition of monetary actions involves a violation of the federal securities laws. Accordingly, Governors of the MSE would still be subject to the full panoply of damages in actions involving violations of the federal securities laws.<sup>7</sup>

Exchange, Inc. ("PSE") which provided an exemption from monetary liability for a Governor's breach of fiduciary duty to the PSE or its members. See Securities Exchange Act Release No. 27466 (November 22, 1989), 54 FR 49380 (approving File No. SR-PSE-89-23).

<sup>6</sup> The powers and responsibilities of the MSE's Board of Governors are set out in the Exchange's Constitution. Under Article III, section 1, the Board of Governors is authorized to manage the business of the Exchange and is vested with all powers necessary for the government of the Exchange, including the regulation of the business conduct of members and member organizations and the promotion of the welfare, objects and purposes of the Exchange. Furthermore, section 1 provides that the Board may establish Rules governing the qualifications for membership and the requirements for remaining a member in good standing. The Board is also given the power to fill vacancies in any office, including the Board of Governors, but excluding the Nominating Committee, until the next annual meeting. The Board also has the power to interpret the Constitution and Rules of the Exchange and any interpretation made by it remains final and conclusive.

<sup>7</sup> To the extent there is any remaining concern that the imposition of monetary damages against Board members for violations of federal securities

For the reasons discussed in detail above, the Commission believes the proposed amendment to the MSE's Certificate of Incorporation and Constitution, and proposed new Article XVIII, Rule 1 are consistent with the requirements of the Act, and, in particular, with the requirements of section 6 and section 19(g) of the Act.<sup>8</sup>

It is therefore ordered, pursuant to section 19(b)(2) of the Act,<sup>9</sup> that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

Dated: January 16, 1990.

Jonathan G. Katz,

Secretary.

FR Doc. 90-1603 Filed 1-23-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17307; 811-4104]

### The Connecticut Bank and Trust Company IRA Collective Investment Fund; Application for Deregistration

January 17, 1990.

**AGENCY:** Securities and Exchange Commission ("SEC").

**ACTION:** Notice of Application for Exemption Under the Investment Company Act of 1940 ("1940 Act").

**Applicant:** The Connecticut Bank and Trust Company IRA Collective Investment Fund.

**Relevant 1940 Act Sections:** Order requested under section 8(f).

**Summary of Application:** Applicant seeks an order declaring that it has ceased to be an investment company.

**Filing Date:** The application was filed on June 26, 1989.

**Hearing or Notification of Hearing:** An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on

laws would deter persons from acting on MSE's Board of Governors, the Commission notes that Article X of the MSE's Constitution allows the Exchange to provide indemnification to members of its Board of Governors, within the limits permitted by Delaware law, to safeguard them from expense and liability for actions that they take in such capacity in good faith in furtherance of, or without belief that such actions are opposed to, the best interests of the MSE and its members. See also the Eleventh Article of the MSE's Certificate of Incorporation.

<sup>8</sup> 15 U.S.C. 78f (1982).

<sup>9</sup> 15 U.S.C. 78s(b)(2) (1982).

<sup>10</sup> 17 CFR 200.30-3(a)(12) (1989).

<sup>3</sup> See Securities Exchange Act Release No. 27522 (December 7, 1989), 54 FR 51535 for the exact language of the proposed rule change.

<sup>4</sup> Del. Code Ann., Tit. 8, § 102(b)(7) (1988).

<sup>5</sup> The Commission approved an almost identical rule change submitted by the Pacific Stock



February 15, 1990, and should be accompanied by proof of service on the Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicant, One Constitution Plaza, Hartford, Conn. 06115.

**FOR FURTHER INFORMATION CONTACT:** Patricia L. Copeland, Legal Technician, at (202) 272-3009 or Karen L. Skidmore, Branch Chief, at (202) 272-3023.

**SUPPLEMENTARY INFORMATION:** Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier who can be contacted at (800) 231-3282 (in Maryland (301) 258-4300).

#### Applicant's Representations

1. Applicant is organized as a trust under the laws of the State of Connecticut. On September 4, 1984, Applicant registered on Form N-8A under the 1940 Act and filed a registration statement on Form N-1A under the 1940 Act and the Securities Act of 1933. Applicant registered as an open-end diversified management investment company offering, as its securities, units of beneficial interest ("Units"). Applicant's registration statement was declared effective on February 19, 1985, and the initial public offering commenced shortly thereafter.

2. The Units were offered and sold only to certain trusts (the "Participating Trusts") which held the assets of individual retirement accounts ("IRAs") and of which The Connecticut Bank and Trust Company, N.A. ("CBT" or the "Trustee") is the Trustee. Legal title to the Units held by each of the Participating Trusts was held in the name of the Trustee of such trust. The natural persons who own the IRAs in such trust are the beneficiaries of such trust and the beneficial owners of such Units (the "Participants"). Each Participant was entitled to direct the trustee to purchase or redeem Units for his or her Participating Trust or to transfer its investment from one of the three series (each individually, a "class" and collectively, the "classes") of the Applicant to another, subject in the latter case to certain restrictions.

3. By January 1989, the Applicant had not attracted sufficient assets and changes in federal income tax laws

made substantial future growth unlikely. The small amount of assets invested in Applicant limited severely its ability to diversify investments and made operating the Applicant unprofitable for the Trustee.

4. At its meeting held on January 18, 1989, the Supervisory Committee of the Applicant determined that it was in the best interests of the Participants to effect the termination of the Applicant in accordance with its Restated Declaration of Trust and approved the actions necessary for such termination, including obtaining the approval of the Participants.

5. Proxy statements seeking approval of the termination of Applicant were distributed to the Participants on March 9, 1989. The proxy statement notified the Participants that, in addition to their ongoing redemption rights, they had the option of directing the investment of their share of the distribution in the liquidation of the Applicant that would be made to their Participating Trusts in any investment option available to CBT self-directed IRA accounts. If the Participant did not direct investment in any such option, the distribution to that Participant's Participating Trust was to be invested for such Participating Trust in a CBT six-month certificate of deposit paying interest at an annual rate equal to one percent above the annual rate being paid on CBT's six-month Select Certificate on the date when the value of such distribution was determined, with no bank penalty for early withdrawal.

6. On March 31, 1989, the Board of Directors of CBT approved the termination of the Applicant under regulations adopted by the Office of the Comptroller of the Currency. On April 5, 1989, the Participants voted in favor of termination of each of the three classes of the Applicant. Thereafter, on the same day, the Trustee determined to wind up the affairs of the Applicant and, after winding up such affairs, executed pursuant to the Restated Declaration of Trust of the Applicant, as amended, an instrument to the effect that the Applicant is terminated.

7. On April 6, 1989, the day CBT began to liquidate all of the portfolio securities of the Applicant. The U.S. Government Securities Portfolio had a net asset value of \$637,192.15 in the aggregate and \$14.09 per Unit; the Equity Growth Portfolio had a net asset value of \$1,424,431.68 in the aggregate and \$16.41 per Unit; and the Special Equity Portfolio had a net asset value of \$667,684.96 in the aggregate and \$17.70 per Unit. CBT supervised and managed the sale of all portfolio securities of all of the classes of the Applicant. CBT

distributed all of the assets of the Applicant. Each of the remaining Participating Trusts of each class was credited with distributions equal to the liquidation value of the Units held by such Participating Trust. The liquidation value of the Units of a class equalled the net worth of the class (that is, the aggregate value of all of the assets of the class less the sum of the aggregate amount of all of the liabilities of the class) divided by the total number of issued and outstanding Units of the class. After the foregoing distributions were made, no outstanding unitholders of the Applicant remained.

8. All the expenses incurred by the Applicant in connection with the solicitation of proxies, deregistration, liquidation and termination of the Applicant (excluding brokerage commissions and transfer taxes or fees) have been paid by CBT, the Applicant's Trustee and investment adviser. Such expenses paid by CBT include legal fees, independent public accountant fees, expenses of the proxy solicitation, expenses for contracted data services, forms and office supplies, postage, insurance and directors' fees.

9. As of April 7, 1989, Applicant had no other assets, debts or other liabilities, or securityholders.

10. After the Participants and the Trustee approved the termination of the Applicant, the Applicant ceased to engage in any business other than that necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-1605 Filed 1-23-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17306; 812-7399]

#### PaineWebber American Fund, et al.; Application

January 16, 1990.

**AGENCY:** Securities and Exchange Commission ("SEC").

**ACTION:** Notice of Application for Exemption under the Investment Company Act of 1940 ("1940 Act").

*Applicants:* PaineWebber American Fund, PaineWebber Atlas Fund, PaineWebber California Tax-Exempt Income Fund, PaineWebber Cashfund, Inc., PaineWebber Fixed Income Portfolios, PaineWebber Investment Series, PaineWebber Managed Municipal Trust, PaineWebber Master Series, Inc., PaineWebber Municipal



Series, PaineWebber Olympus Fund, PaineWebber RMA Money Fund, Inc., PaineWebber RMA Tax-Free Fund, Inc., PaineWebber Series Trust, Cypress Fund Inc., Flexible Bond Trust, Inc., Global Income Plus Fund, Inc., Regional Financial Shares Investment Fund Inc., and on behalf of any future series of the foregoing investment companies and such other registered investment companies that in the future are sponsored by Mitchell Hutchins Asset Management Inc. ("Mitchell Hutchins") or PaineWebber Incorporated (collectively, "Funds"), and Mitchell Hutchins, the investment adviser or sub-adviser to the Funds ("Adviser").

**Relevant 1940 Act Section:** Order requested under section 17(d) and Rule 17d-1 permitting a joint transaction.

**Summary of Application:** Applicants seek an order to permit the Funds to deposit uninvested cash balances into one or more joint trading accounts to be used to enter into repurchase agreements.

**Filing Dates:** The application was filed on October 2, 1989, and amended December 9, 1989 and January 10, 1990.

**Hearing or Notification of Hearing:** If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m. on February 12, 1990. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, in the case of an attorney-at-law, by certificate. Request notification of the date of hearing by writing to the Secretary of the SEC.

**ADDRESSES:** Secretary, SEC, 450 5th Street, NW., Washington, DC 20549; Applicants, c/o Donald P. Spencer, Esq., Mitchell Hutchins Asset Management Inc., 1285 Avenue of the Americas, New York, New York 10019.

**FOR FURTHER INFORMATION CONTACT:** Brion R. Thompson, Special Counsel, at (202) 272-3016 (Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier who can be contacted at (800) 231-3282 (in Maryland (301) 258-4300).

### Applicants' Representations

1. Each of the existing Funds is a registered management investment company. Several of the Funds consist of multiple investment portfolios ("Series"). All of the Funds and Series (collectively, "Portfolios") are authorized by their investment policies and limitations to invest in repurchase agreements and each has established certain systems and standards that comply with the requirements regarding repurchase agreements set forth by the SEC in its published releases, guidelines and interpretations.

2. At the end of each trading day, Applicants expect that most Portfolios will have uninvested cash balances in their accounts at their custodial banks that would not be otherwise invested in portfolio securities by the Adviser. Generally, such assets are invested in short-term liquid assets, including repurchase agreements. Presently, the Adviser must purchase such instruments separately on behalf of each individual Portfolio, resulting in certain inefficiencies and increase costs and limiting the return which some or all of the Portfolios could otherwise achieve.

3. Applicants propose to deposit the uninvested cash balances remaining at the end of each trading day of the Portfolios into one or more joint accounts, the daily balance of which would be used to enter into one or more short-term repurchase agreements with a bank (including a Fund's custodian bank), a non-bank government securities dealer or major brokerage house in a total amount equal to the aggregate daily balance in the account. The joint accounts would not be distinguishable from any other account maintained by a Portfolio with its custodian bank except that monies from each Portfolio could be deposited in the custodian bank on a commingled basis. The accounts would not have any separate existence which would have indicia of separate legal entity. The sole function of the accounts would be to provide a convenient way of aggregating what otherwise would be the one or more individual daily transactions for each Portfolio necessary to manage their respective daily uninvested cash balances.

4. Each of the Portfolios participating in a proposed joint account would participate in that account on the same basis as every other participating Portfolio. The Adviser would have no monetary participation in any joint account but would be responsible for investing monies in the accounts, establishing accounting and control

procedures, ensuring the equal treatment of each Portfolio, and ensuring that the assets of the Portfolios would continue to be held under proper bank custodial procedures.

5. The joint accounts would save the Portfolios certain transaction fees, allow the Portfolios to negotiate higher rates of return, and reduce the possibility of errors by reducing the number of trade tickets. Any future Portfolios that participate in a joint account would be required to do so on the same terms and conditions as the existing Portfolios.

6. Any joint repurchase agreement transactions entered into through the proposed joint trading accounts will comply with the standards and guidelines set forth in Investment Company Act Release No. 13005 (Feb. 3, 1983) and with other existing and future positions taken by the Commission or its staff by rule, release, letter or otherwise relating to joint repurchase agreement transactions.

### Conditions

As express conditions to obtaining an order granting the relief requested, Applicants agree that the proposed joint accounts will operate subject to the following procedures:

(a) A separate cash account will be established at the applicable custodian bank into which each qualifying participating Portfolio would deposit its daily uninvested net cash balances. Each Fund that has as custodian a bank other than the bank at which a proposed joint account is maintained and that wished to participate in that joint account will appoint the latter bank as a sub-custodian for the limited purpose of receiving cash for deposit into the proposed joint account.

(b) Cash in each joint account will be invested only in repurchase agreements collateralized by suitable U.S. Government obligations, *i.e.*, obligations issued or guaranteed as to principal and interest by the government of the United States or by any of its agencies or instrumentalities, and satisfying the policies and guidelines of the Portfolios concerning repurchase agreements. Any such repurchase agreement will have, with rare exceptions, an overnight or over-the-weekend duration, and in no event will it have a duration of more than seven days.

(c) All investments held by a joint account will be valued on an amortized cost basis.

(d) Each participating valuation on the basis of amortized cost, or relying upon Rule 2a-7 under the 1940 Act for that purpose, will use the average maturity of



the joint account for the purpose of computing that Portfolio's average portfolio maturity with respect to the portion of its assets held in such account on that day.

(e) In order to assure that there would be no opportunity for one Portfolio to use any part of a balance for a joint account credited to another Portfolio, no Portfolio will be allowed to create a negative balance in the joint account for any reason, although it will be permitted to draw down its entire balance at any time. Each Portfolio's decision to invest in a joint account will be solely at its option; a Portfolio will not be required either to invest a minimum amount or to maintain a minimum balance. Each Portfolio will retain the sole ownership rights to any of its assets invested in the joint account, including any interest payable on the assets invested in a joint account. Each Portfolio's investment in a joint account will be documented daily on the books of the Portfolio as well as on the books of the Portfolio's custodian bank.

(f) Each Portfolio will participate in the income earned or accrued in a joint account and all instruments held in the joint account (i.e., cash and U.S. Government securities) on the basis of the percentage of the total amount in the account on any day represented by its share of the account.

(g) Under the general terms of each Portfolio's Investment Advisory and Administration Contract or Sub-Advisory Contract ("Advisory Contract"), the Adviser will administer the investment of the cash balances in and operation of the joint accounts and will not collect any separate fees for the management of the joint accounts. The operation of the joint accounts is not provided for specifically under each Portfolio's Advisory Contract, but rather is covered under the general terms of each such Contract.

(h) The administration of the joint accounts will be within the fidelity bond coverage required by section 17(g) of the 1940 Act and Rule 17g-1 thereunder. The Funds currently are insured under a joint fidelity bond.

(i) The Board of Trustees/Directors of each of the Funds and any future Funds participating in any joint account will evaluate annually the joint arrangements, and will continue participation in the accounts only if they determine that there was a reasonable likelihood that the participating Portfolio and its shareholders would benefit from continued participation.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,  
Secretary.

[FR Doc. 90-1606 Filed 1-23-90; 8:45 am]  
BILLING CODE 8010-01-M

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### Environmental Impact Statements; City of Hickory and Catawba County, NC

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of intent.

**SUMMARY:** The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project within the City of Hickory and Catawba County, North Carolina.

**FOR FURTHER INFORMATION CONTACT:** Roy C. Shelton, District Engineer, Federal Highway Administration, 4505 Falls of the Neuse Rd., Suite 470, P.O. Box 26806, Raleigh, North Carolina 27611, Telephone (919) 790-2852.

**SUPPLEMENTARY INFORMATION:** The FHWA in cooperation with the North Carolina Department of Transportation (NCDOT) will prepare an environmental impact statement (EIS) on a proposed East Side Thoroughfare in the City of Hickory and Catawba County. The proposed action would involve linking NC 127 with US 70. The proposed improvements would function as a major thoroughfare for the Hickory area and relieve congestion on existing routes. This facility is designated as a major thoroughfare in the mutually adopted Hickory Thoroughfare Plan.

Alternatives under consideration include: (1) The "do nothing" or No Action Alternative, and (2) the Build Alternative. The Build Alternatives include alternative corridors utilizing either existing 29th Avenue NW. or on a new location between NC 127 and Springs Road, and on new location from Springs Road on US 70. Project also includes a new interchange at the intersection with I-40. The proposed facility would potentially be a four-lane divided or five-lane curb and gutter arterial with controlled access along the interchange at I-40.

Solicitation of comments on the proposed action will be sent to appropriate Federal, State and local agencies. A complete public involvement program has been developed for the project to include: the distribution of newsletters to interested

parties, along with public meetings and public hearing to be held in the study area. Information on the time and place of the public meetings and the public hearing will be provided in the local news media. The draft EIS will be available for public and agency review and comment review and comment prior to the public hearing. No formal scoping meeting is planned at this time.

To assure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: January 10, 1990.

Roy C. Shelton,  
District Engineer, Raleigh, NC.

[FR Doc. 90-1576 Filed 1-23-90; 8:45 am]  
BILLING CODE 4910-22-M

## DEPARTMENT OF THE TREASURY

### Public Information Collection Requirements Submitted to OMB for Review

Dated: January 18, 1990.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

#### Internal Revenue Service

OMB Number: 1545-0889.

Form Number: IRS Form 8275.

Type of Review: Extension.

Title: Disclosure Statement Under section 6662(d).

Description: Internal Revenue Code section 6662(d) imposes a penalty on taxpayers for the substantial understatement of income tax liability. The penalty may be reduced if the taxpayer adequately discloses



the relevant facts affecting the tax treatment of any item on the return, providing these items are not from a tax shelter.

**Respondents:** Individual or households, Farms, Businesses or other for-profit, Non-profit institutions, Small businesses or organizations.

**Estimated Number of Responses:** 100.

#### ESTIMATED BURDEN HOURS PER RESPONDENT

Recordkeeping .....	3 hrs., 7 mins.
Learning about the law or the form.	1 hr., 17 mins.
Preparing and sending the form to IRS.	1 hr., 24 mins.

**Frequency of Response:** Annually.

**Estimated Total Recordkeeping/**

**Reporting Burden:** 580 hours.

**OMB Number:** 1545-0908.

**Form Number:** IRS Forms 8282 and 8283.

**Type of Review:** Revision.

**Title:** Donee Information Return (Sale, Exchange, or Other Disposition of Donated Property) (8282); and Noncash Charitable Contributions. (8283).

**Description:** Form 8282 is an information return used by nonprofit institutions who sell, exchange, or otherwise dispose of contributed property (over \$5,000 FMV) within two years of the date of receipt of the property. Taxpayers who give property in excess of \$500 must provide certain information on Section A of Form 8283. Section B of the Form 8283 is used by taxpayers who contribute property in excess of \$5,000 FMV to report their appraisal summary information and a signed acknowledgement from donor organization that they received the gift of property.

**Respondents:** Individual or households, Businesses or other for-profit, Non-profit institutions, Small businesses or organizations.

**Estimated Number of Responses:** 1,500,100.

#### ESTIMATED BURDEN HOURS PER RESPONDENT

	8282	8283
Recordkeeping .....	3 hrs., 7 mins.	20 mins.
Learning about the law or the form.	30 mins.	26 mins.
Preparing and sending the form to IRS.	34 mins.	35 mins.

#### ESTIMATED BURDEN HOURS PER RESPONDENT—Continued

	8282	8283
Copying, assembling, and sending the form to IRS.		35 mins.

**Frequency of Response:** Other.

**Estimated Total Recordkeeping/**

**Reporting Burden:** 2,895,417 hours.

**Clearance Officer:** Garrick Shear, (202) 535-4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

**OMB Reviewer:** Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

**Lols K. Holland,**

*Departmental Reports, Management Officer.*

[FR Doc. 90-1587 Filed 1-23-90; 8:45 am]

**BILLING CODE 4830-01-M**

#### Office of the Secretary

[Supplement to Department Circular—Public Debt Series—No. 1-90]

#### Treasury Notes, Series D-1997

Washington, January 11, 1990.

The Secretary announced on January 10, 1990, that the interest rate on the notes designated Series D-1997, described in Department Circular—Public Debt Series—No. 1-90 dated January 4, 1990, will be 8 percent. Interest on the notes will be payable at the rate of 8 percent per annum.

**Gerald Murphy,**

*Fiscal Assistant Secretary.*

[FR Doc. 90-1611 Filed 1-23-90; 8:45 am]

**BILLING CODE 4910-40-M**

[Department Circular—Public Debt Series—No. 2-90]

#### Treasury Notes of January 31, 1992, Series V-1992

Washington, January 18, 1990.

#### 1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority Chapter 31 of Title 31, United States Code, invites tenders for approximately \$10,000,000,000 of United States securities, designated Treasury Notes of January 31, 1992, Series V-1992 (CUSIP No. 912827 YL 0), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment

will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

#### 2. Description of Securities

2.1. The Notes will be dated January 31, 1990, and will accrue interest from that date, payable on a semiannual basis on July 31, 1990, and each subsequent 6 months on January 31 and July 31 through the date that the principal becomes payable. They will mature January 31, 1992, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Notes will be issued only in book-entry form in denominations of \$5,000, \$10,000, \$100,000, and \$1,000,000, and in multiples of those amounts. They will not be issued in registered definitive or in bearer form.

2.5. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the Treasury Direct Book-Entry Securities System in Department of the Treasury Circular, Public Debt Series, No. 2-86 (31 CFR part 357), apply to the Notes offered in this circular.

#### 3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches



and at the Bureau of the Public Debt, Washington, DC 20239-1500, prior to 1:00 p.m., Eastern Standard time, Wednesday, January 24, 1990. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, January 23, 1990, and received no later than Wednesday, January 31, 1990.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is \$5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than \$1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks. Tenders from all others must be accomplished by full payments for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer or 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4,

noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lower yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a  $\frac{1}{8}$  of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determination of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

#### 4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this section is final.

#### 5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in Section 3.5, must be made or completed on or before

Wednesday, January 31, 1990. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Monday, January 29, 1990. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in Treasury Direct are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the note being purchased. In any such case, the tender form used to place the Notes allotted in Treasury Direct must be completed to show all the information required thereon, or the Treasury Direct account number previously obtained.

#### 6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may, at any time, supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is



pledged to pay, in legal tender, principal and interest of the Notes.

Gerald Murphy,

*Fiscal Assistant Secretary.*

[FR Doc. 90-1659 Filed 1-22-90; 10:43 am]

BILLING CODE 4810-40-M

## UNITED STATES INFORMATION AGENCY

### United States Advisory Commission on Public Diplomacy; Meeting

A meeting of the U.S. Advisory Commission on Public Diplomacy will be held January 24, 1990. The Commission's meeting will be on-the-record and open to the public in Room 840, 301 4th Street, SW., Washington, DC.

8:30 a.m., The Honorable Bruce S. Gelb, Director, United States Information Agency

The Honorable Eugene P. Kopp, Deputy Director, United States Information Agency

The Honorable Michael Pistor, Counselor, United States Information Agency

9:30 a.m., The Honorable Lawrence Eagleburger, Deputy Secretary of State

The Honorable Raymond G.H. Seitz, Assistant Secretary of State for European and Canadian Affairs

10:30 a.m., Break

10:45 a.m., The Honorable Paul Wolfowitz, Under Secretary of Defense for Policy

11:15 a.m., The Honorable William Brock, Chairman, National Endowment for Democracy, The Honorable Carl Gershman, President, National Endowment for Democracy

11:45 a.m., The Honorable Max Kampelman, former Counselor of the Department of State and former Ambassador and Head of the United States Delegation to the Conference on Security and Cooperation in Europe (CSCE).

12:15 p.m. The Honorable Frank Shakespeare former Ambassador to the Holy See and former Director of the United States Information Agency.

Please call Gloria Kalamets, (202) 485-2468, if you are interested in attending the meeting since space is limited and entrance to the building is controlled.

Dated: January 18, 1990.

Ledra L. Dildy,

*Management Analyst, Federal Register Liaison.*

[FR Doc. 90-1725 Filed 1-22-90; 2:08 p.m.]

BILLING CODE 8230-01-M

## DEPARTMENT OF VETERANS AFFAIRS

### Information Collection Under OMB Review

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists the following information: (1) The agency responsible for sponsoring the information collection; (2) the title of the information collection; (3) the Department form number(s), if applicable; (4) a description of the need and its use; (5) frequency of the information collection, if applicable; (6) who will be required or asked to respond; (7) an estimate of the number of responses; (8) an estimate of the total number of hours needed to complete the information collection; and (9) an indication of whether section 3504(h) of Public Law 96-511 applies.

**ADDRESSES:** Copies of the proposed information collection and supporting documents may be obtained from John Turner, Veterans Benefits Administration (203C), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233-2744.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395-7316. Please do not send applications for benefits to the above addressees.

**DATES:** Comments on the information collection should be directed to the OMB Desk Officer on or before February 23, 1990.

Dated: January 16, 1990.

By direction of the Secretary.

Frank E. Lalley,

*Director, Office of Information Management and Statistics.*

### Extension

1. Veterans Benefits Administration
2. Request to Employer for Employment Information in Connection with Claims for Disability Benefits.
3. VA Form Letter 29-459
4. Use of this form will allow the VA to establish the insured's eligibility for insurance benefits.
5. On occasion
6. Individuals or households

7. 5,172 responses

8. ½ hour

9. Not applicable

[FR Doc. 90-1623 Filed 1-23-90; 8:45 am]

BILLING CODE 8320-01-M

### Information Collection Under OMB Review

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The agency responsible for sponsoring the information collection; (2) the title of the information collection; (3) the Department form number(s), if applicable; (4) a description of the need and its use; (5) frequency of the information collection, if applicable; (6) who will be required or asked to respond; (7) an estimate of the number of responses; (8) an estimate of the total number of hours needed to complete the information collection; and (9) an indication of whether section 3504(h) of Public Law 96-511 applies.

**ADDRESSES:** Copies of the proposed information collection and supporting documents may be obtained from John Turner, Veterans Benefits Administration (203C), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 233-2744.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503, (202) 395-7316. Please do not send applications for benefits to the above addressees.

**DATE:** Comments on the information collection should be directed to the OMB Desk Officer within 30 days of this notice.

Dated: January 16, 1990.

By direction of the Secretary.

Frank E. Lalley,

*Director, Office of Information Management and Statistics.*

### Extension

1. Veterans Benefits Administration.
2. Statement of Dependency of Parent(s).
3. VA Form Letter 21-509.



4. The use of this form will allow the gathering of information necessary to determine that a parent meets the requirements for death benefits.

5. On occasion.

6. Individuals or households.

7. 40,000 responses.

8. ½ hour.

9. Not applicable.

[FR Doc. 90-1627 Filed 1-23-90; 8:45 am]

BILLING CODE 8320-01-M

#### Advisory Committee for Health Research Policy; Establishment

In accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463 as amended by Pub. L. 94-409) and Office of Management and Budget Circular A-83, as revised, and after consultation with the General Services Administration, the Secretary, VA (Department of Veterans Affairs) has determined that establishment of the Advisory Committee for Health Research Policy is necessary and in the public interest in connection with the performance of duties imposed on VA by law.

The committee has been established to address a number of aspects of the Research and Development program, including (1) Is VA's research appropriately balanced among health research subject areas? (2) Is VA's research appropriate to the role of VA in providing medical and other health care services to veterans? (3) Is VA's research appropriate vis-a-vis the role of the other Federal agencies, including the National Institutes of Health? and (4) What is the overall quality of VA's research program, given the purpose of that program? Members of the committee will be selected from among individuals with expertise in research—including biomedical, mental health, surgical, rehabilitation, and health services research. In addition, members will be selected for prominence in leadership roles in such fields as health policy, medical education, and research. This diverse group will permit VA to obtain balanced expertise on all crucial aspects of VA's health research program.

Comments of interested persons concerning the establishment of the Committee may be submitted to Richard J. Greene, M.D., Ph.D., Assistant Chief Medical Director for Research and Development (15), Veterans

Administration Central Office, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233-2616.

Dated: January 17, 1990.

By direction of the Secretary.

Laurence M. Christman,  
Executive Assistant.

[FR Doc. 90-1624 Filed 1-23-90; 8:45 am]

BILLING CODE 8320-01-M

#### Advisory Committee on Former Prisoners of War; Meeting

The Department of Veterans Affairs gives notice under Pub. L. 92-463 that a meeting of the Advisory Committee on Former Prisoners of War will be held in the Omar Bradley Conference Room, 10th floor, at VA Central Office, 810 Vermont Avenue, NW., Washington, DC 20420, from March 14, 1990, through March 16, 1990. The meeting will convene at 9 a.m. each day and will be open to the public. Seating is limited and will be available on a first-come, first-served basis.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on the administration of benefits under Title 38, United States Code, for veterans who are former prisoners of war, and to make recommendations on the need of such veterans for compensation, health care and rehabilitation.

The Committee will receive briefings and hold discussions on various issues affecting health care and benefits delivery, including, but not limited to, the following: education and training of VA personnel involved with former POWs; the status of privately and publicly funded research affecting former prisoners of war; past and current legislative issues affecting former prisoners of war; the various disabilities and sequelae of long-term captivity; and the procedures involved in processing claims for service-connected disabilities submitted by former prisoners of war. The main focus of the discussions and the meeting in general is to complete preparation of the Committee's biennial report.

Members of the public may direct questions or submit prepared statements for review by the Committee in advance of the meeting, in writing only, to Mr. J. Gary Hickman, Director, Compensation and Pension Service (21), room 275, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Submitted material must be received at least five business days

prior to the meeting. Members of the public may be asked to clarify submitted material prior to consideration by the Committee.

A report of the meeting and a roster of Committee members may be obtained from Mr. Hickman.

Dated: January 16, 1990.

By direction of the Secretary:

Laurence M. Christman,  
Executive Assistant.

#### Meeting Agenda (Tentative)

March 14-16, 1990

Wednesday, March 14

9 a.m.—Meeting convenes. Opening remarks by Chairman.

9:15 a.m.—Briefing by Veterans Health Service and Research Administration (VHSRA): Education and training, Current POW Research Prospects for VA involvement in NAMI research project in Pensacola.

9:15 a.m.—Sequelae of former POW disabilities (by Capt. Joseph M. Ricciardi, MC, USN), Discussion of VHSRA presentations.

Break for lunch at 12 Noon.  
Reconvene at 1:30 p.m. with continuation of VHSRA presentation and discussions. Recess at 4 p.m. or at the discretion of the Chairman.

#### Meeting Agenda (Tentative)

March 14-16, 1990

Thursday, March 15

9 a.m.—Meeting reconvenes. Opening remarks by Chairman.

9:15 a.m.—Briefing by Veterans Benefits Administration (VBA): Education and training, Explanation of the procedures for processing claims for service-connected compensation with particular emphasis on claims from former Prisoners of War.

9:15 a.m.—Presentation by staff of the office of the Assistant Secretary for Congressional Affairs: Intent of Public Law 97-37, Impact of General Counsel decisions on implementation and interpretation of PL 97-37, Attitude of Congress on expanding list of former POW presumptive conditions (38 USC 312(b)), Discussion of VBA and Congressional Affairs presentations.

Break for lunch at 12 Noon.  
Reconvene at 1:30 p.m. with continuation of presentations and discussions. Recess at 4 p.m. or at the discretion of the Chairman.



**Meeting Agenda (Tentative)****March 14-16, 1990****Friday, March 16**

9 a.m.—Meeting reconvenes. Opening remarks by Chairman.

9:15 a.m.—General business as determined by the Chairman. Discuss preparation of Biennial Report.

Break for lunch at 12 Noon.

Reconvene at 1:30 p.m. with continuation of presentations and discussions. Recess at 4 p.m. or at the discretion of the Chairman.

[FR Doc. 90-1625 Filed 1-23-90; 8:45 am]

BILLING CODE 8320-01-M



# Sunshine Act Meetings

Federal Register

Vol. 55, No. 16

Wednesday, January 24, 1990

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

## FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: January 18, 1990, 55 FR 1531.

**PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING:** January 17, 1990, 10:00 a.m.  
**CHANGE IN THE MEETING:** The following Docket Numbers and Company have been added to Items CAG-17, CAG-51 and PC-1(A) for the agenda of January 17, 1990:

Item No.	Docket No. and Company
CAG-17.....	CP89-1227-000 and RP88-259-000, Northern Natural Gas Company, Division of Enron Corp.
CAG-51.....	CP88-181-000 and 001, PennEast Gas Service Company.
PC-1(A).....	CP89-2047-000, Kern River Gas Transmission Company.
	CP89-2-001, Mojave Pipeline Company.

Lois D. Cashell,  
Secretary.

[FR Doc. 90-1655 Filed 1-19-90; 4:18 pm]

BILLING CODE 6717-02-M

## NATIONAL TRANSPORTATION SAFETY BOARD

**TIME AND DATE:** 9:30 a.m. Tuesday, January 30, 1990.

**PLACE:** Board Room, Eighth floor, 800 Independence Avenue, SW., Washington, DC 20594.

**STATUS:** Open.

### MATTERS TO BE CONSIDERED:

1. Safety Study: Alcohol and Other Drug

Involvement in Fatal-to-the Driver Heavy Truck Crashes.

2. Case Summaries for the Safety Study: Alcohol and Other Drug Involvement in Fatal-to-the Driver Heavy Truck Crashes.

**NEWS MEDIA PLEASE CONTACT BETTY SCOTT (202) 382-6800**

**FOR MORE INFORMATION CONTACT:** Bea Hardesty, (202) 382-6525.

Dated: January 19, 1990.  
 Bea Hardesty,  
 Federal Register Liaison Officer.

[FR Doc. 90-1664 Filed 1-22-90; 9:58 am]

BILLING CODE 7533-01-M

## NUCLEAR REGULATORY COMMISSION

**DATE:** Weeks of January 22, 29, February 5, and 12, 1990.

**PLACE:** Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

**STATUS:** Open and Closed.

### MATTERS TO BE CONSIDERED:

**Week of January 22**

*Thursday, January 25*

11:30 a.m.  
 Affirmation/Discussion and Vote (Public Meeting) (if needed)

**Week of January 29—Tentative**

*Tuesday, January 30*

2:00 p.m.  
 Briefing on Status of Proposed Rule on License Renewal (Public Meeting)

*Thursday, February 1*

2:00 p.m.  
 Affirmation/Discussion and Vote (Public Meeting) (if needed)

**Week of February 5—Tentative**

*Thursday, February 8*

3:30 p.m.  
 Affirmation/Discussion and Vote (Public Meeting) (if needed)

*Friday, February 9*

2:00 p.m.  
 Briefing by Executive Branch (Closed—Ex. 1)

**Week of February 12—Tentative**

*Wednesday, February 14*

2:00 p.m.  
 Briefing on Status of Industry's Implementation of Unresolved Safety Issues (Public Meeting)

*Thursday, February 15*

9:00 a.m.  
 Periodic Briefing on Operation Reactors and Fuel Facilities (Public Meeting)  
 11:30 a.m.  
 Affirmation/Discussion and Vote (Public Meeting) (if needed)

**Note:** Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is not specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

**To Verify the Status of Meetings Call (Recording)—(301) 492-0292**

**CONTACT PERSON FOR MORE INFORMATION:** William Hill (301) 492-1661.

Dated: January 22, 1990.

William M. Hill, Jr.,  
 Office of the Secretary.

[FR Doc. 90-1723 Filed 1-22-90; 1:33 p.m.]

BILLING CODE 7590-01-M



# Corrections

Federal Register

Vol. 55, No. 18

Wednesday, January 24, 1990

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. TQ89-1-46-022]

#### Kentucky West Virginia Gas Co.; Fifth Amendment to Compliance Filing

##### Correction

In notice document 90-1088 appearing on page 1720 in the issue of Thursday, January 18, 1990, in the first column, the docket line should read as set forth above.

BILLING CODE 1505-01-D

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket Nos. EC90-10-000, et al.]

#### Northeast Utilities Service Company, et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

##### Correction

In notice document 90-1204 beginning on page 1864 in the issue of Friday, January 19, 1990, make the following correction:

On page 1865, in the second column, under **7. Consolidated Edison Company of New York, Inc.**, the docket number should read "[Docket No. ER90-114-000]".

BILLING CODE 1505-01-D

## FEDERAL RESERVE SYSTEM

### 12 CFR Part 203

[Regulation C; Docket No. R-0674]

RIN 7100-AB04

#### Home Mortgage Disclosure

##### Correction

In the correction to rule document 89-29240 appearing on page 695 in the issue of Monday, January 8, 1990, make the following correction: *Part 203 Appendix A—[Corrected]*

In the third column, in *Appendix—A*, in item 6, in the third line, "au" should read "all".

BILLING CODE 1505-01-D

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 440

[Docket No. 89N-0493]

#### Antibiotic Drugs; Oxacillin Sodium Injection

##### Correction

In rule document 90-68 beginning on page 278 in the issue of Thursday, January 4, 1990, make the following correction:

#### \$440.249b [Corrected]

On page 279, in the first column, in § 440.249b, in the first line of paragraph (b), the last word, "That" should read "Thaw".

BILLING CODE 1505-01-D

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 452

[Docket No. 89N-0439]

#### Antibiotic Drugs; Erythromycin Estolate and Sulfisoxazole Acetyl Oral Suspension

##### Correction

In rule document 90-66 beginning on page 279 in the issue of Thursday, January 4, 1990, make the following correction:

On page 280, in the first column, in the paragraph following the **LIST OF SUBJECTS IN 21 CFR PART 452**, in the second line, the letters "ct" should read "Act".

BILLING CODE 1505-01-D







# Even Start

Wednesday  
January 24, 1990

## Part II

## Department of Education

**Even Start Program; Inviting Applications  
for New Awards for Fiscal Year (FY)  
1990; Notice**



## DEPARTMENT OF EDUCATION

[CFDA No.: 84.213]

**Even Start Program; Inviting Applications for New Awards for Fiscal Year (FY) 1990**

*Notice to Applicants:* This notice is a complete application package. Together with the statute authorizing the program and applicable regulations governing the program, including the Education Department General Administrative Regulations (EDGAR), the notice contains information, application forms, and instructions needed to apply for a grant under this competition.

*Purpose of Program:* To provide Federal financial assistance to eligible local educational agencies (LEAs) for the Federal share of the cost of providing family-centered education projects to help parents become full partners in the education of their children; to assist children in reaching their full potential as learners; and to provide literacy training for their parents.

*Deadline for Transmittal of Applications:* March 30, 1990.

*Deadline for Intergovernmental Review:* May 7, 1990.

*Available Funds:* Approximately \$10,477,000.

*Estimated Range of Awards:* \$50,000 to \$250,000.

*Estimated Average Size of Awards:* \$193,000.

*Estimated Number of Awards:* 54.

*Note:* The Department is not bound by any estimates in this notice.

*Project Period:* Up to 48 months.

*Applicable Regulations:* (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR part 75 (Direct Grant Programs), part 77 (Definitions that Apply to Department Regulations), part 79 (Intergovernmental Review of Department of Education Programs and Activities), part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments), part 81 (General Education Provisions Act—Enforcement), and part 85 (Government Debarment and Suspension (Nonprocurement) and Government Requirements for Drug-Free Workplace (Grants)); and (b) The regulations for this program in 34 CFR part 212 published in the *Federal Register* on March 23, 1989 (54 FR 12141–12144).

*Program Description:* The Even Start program, recognizing that some parents lack the skills needed to assist in early learning for their children, provides simultaneous educational services to

children and parents. Eligible grantees are LEAs that have collaborated with appropriate nonprofit organizations. Eligible participants are children who reside in an elementary school attendance area designated for participation in the Chapter 1 basic program and their parents who are eligible for participation in an adult education program under the Adult Education Act.

The Secretary awards grants to LEAs for a period not to exceed four (4) years. The Federal share of the total cost of the grants will be not more than 90 percent in the first year, decreasing by 10 percent in subsequent continuation years to 60 percent in year four. In their applications, LEAs must demonstrate their ability to provide this additional funding.

The Secretary is required under section 1058 of the Act to provide for an annual independent evaluation of projects under Even Start. It is the intent of Congress that successful projects be considered for dissemination through the National Diffusion Network. In addition, for continuation of funding beyond year one, grantees are required to show progress toward meeting project objectives. Grantees shall cooperate with the Secretary to carry out these requirements by adopting an evaluation plan that is consistent with the Secretary's responsibilities under section 1058 of the Act and with the grantee's responsibilities under § 75.590 of EDGAR. It is not expected that the application will include a complete evaluation plan. However, the review panel's examination of the applicant's promise as a model, under § 212.21(e) of the regulations, will include an analysis of the approach the applicant expects to use to evaluate its project.

In support of these requirements, each applicant should budget for evaluation activities as follows: A project with an estimated cost of up to \$120,000 should designate \$5,000 for this purpose; a project with an estimated cost of over \$120,000 should designate \$10,000 for these activities. These funds will be used for expenditures related to the collection and aggregation of the data required under section 1058. The LEA must also earmark an appropriate amount of the funds identified for the independent annual evaluation to cover the cost of travel to Washington, DC, and two nights' lodging for the project director and the project evaluator for their participation in the annual evaluation meeting.

The following instructions and examples outline the procedure an LEA should use to compute the percentage of eligible children and parents to be

served by their district under the Even Start program (to be used in part IV B of this application):

(1) Determine the number of participating chapter 1 elementary attendance areas within the entire district. *Example:* District A has 10 participating chapter 1 elementary attendance areas.

(2) Determine the number of parents in all attendance areas identified above that have children ages 1–7, and who are eligible for participation in an adult education program under the Adult Education Act. *Example:* Within the 10 attendance areas, the LEA determines that 1,000 parents have children ages 1–7 and qualify for service under the Adult Education Act.

(3) Count the number of children, ages 1–7, of the parents identified in (2) above. *Example:* These parents have 1,500 children ages 1–7.

(4) Add the result of (2) and the result of (3) above to determine the total number of eligible Even Start parents and children. *Example:* District A has 2,500 eligible parents and children.

(5) Subtract the total number of individual parents and children receiving "similar family-centered services" (see definition in § 212.21(b)(3) of the program regulations). *Example:* The LEA and/or the community in which District A is located currently provides family-centered services to 75 of the children and 50 of the parents who are eligible to receive Even Start services. This group is subtracted from the total number of eligible participants identified in (4) above, thereby reducing the total to 2,375.

(6) Identify the number of parents and children that you plan to serve. *Example:* District A has determined that it will implement Even Start services in two of its chapter 1 elementary attendance areas (based on greatest need). Two hundred eligible children and 150 eligible parents reside in these two attendance areas.

(7) Divide the number identified in (6) above by the number resulting from (5). This is the percentage of eligible parents and children targeted to receive Even Start services. *Example:* 350 divided by 2,375 equals .1474 or 14.74 percent. District A plans to serve 15 percent of the eligible Even Start population.

Applicants are permitted to estimate the number of eligible parents and children provided that the information is based upon the most reliable and current data the district has available. Districts are expected to identify and be able to verify data sources.



Applications must be complete in all respects to be reviewed and considered for funding.

**Funding of Current Projects:** In accordance with the requirements of EDGAR, the Secretary plans to fund acceptable continuation requests of current (FY 1989) grantees before funding new projects. It is estimated that the number of continuation grants will approximate the number of current grants. Section 212.22(d) of the regulations provides that to the extent that acceptable applications are received from the various States, the Secretary does not give grants to LEAs in one State in amounts that, in total, exceed the amount that the State would be allocated under section 1053(b) of the Act if the appropriation for the Even Start program equals \$50 million. The following table shows the estimated Even Start allocation to States if there were a \$50 million appropriation, and the total amount of current grants in each State. LEAs planning to apply for Even Start funds and located in States where the current grant(s) equal or approach the maximum allocation should refer to the following table for guidance as to the amount of additional funds that could be awarded to the new applicants.

ESTIMATED EVEN START ALLOCATION TO STATES

	Maximum allocation	Current (FY 1989) grant total
Alabama.....	\$973,578	\$287,296
Alaska.....	250,000	0
Arizona.....	504,698	239,875
Arkansas.....	543,403	211,358
California.....	4,498,811	718,935
Colorado.....	422,262	422,262
Connecticut.....	497,796	470,397
Delaware.....	250,000	122,263
District of Columbia.....	250,000	225,007
Florida.....	1,912,269	477,907
Georgia.....	1,301,265	88,500
Hawaii.....	250,000	235,589
Idaho.....	250,000	0
Illinois.....	2,167,348	356,039
Indiana.....	729,652	521,328
Iowa.....	396,995	202,025
Kansas.....	305,867	305,867
Kentucky.....	816,693	437,685
Louisiana.....	1,088,089	237,237
Maine.....	250,000	158,890
Maryland.....	777,261	473,338
Massachusetts.....	1,073,422	461,711
Michigan.....	1,783,678	385,768
Minnesota.....	562,987	199,187
Mississippi.....	879,410	388,361
Missouri.....	758,872	241,483
Montana.....	250,000	250,000
Nebraska.....	250,000	233,565
Nevada.....	250,000	0
New Hampshire.....	250,000	0
New Jersey.....	1,517,559	228,110
New Mexico.....	357,354	227,000
New York.....	4,915,886	407,825
North Carolina.....	1,085,219	599,246

ESTIMATED EVEN START ALLOCATION TO STATES—Continued

	Maximum allocation	Current (FY 1989) grant total
North Dakota.....	250,000	0
Ohio.....	1,597,624	228,372
Oklahoma.....	453,533	392,054
Oregon.....	383,186	188,201
Pennsylvania.....	2,261,974	213,643
Rhode Island.....	250,000	224,176
South Carolina.....	716,229	388,528
South Dakota.....	250,000	175,517
Tennessee.....	956,871	236,462
Texas.....	2,979,120	600,752
Utah.....	250,000	250,000
Vermont.....	250,000	249,941
Virginia.....	921,172	190,738
Washington.....	541,249	534,863
West Virginia.....	434,205	247,707
Wisconsin.....	699,060	155,014
Wyoming.....	250,000	0
Puerto Rico.....	1,685,403	0

**Selection Criteria:** Selection criteria for the Even Start program are found in the program regulations at 34 CFR 212.21 (54 FR 12142-43).

#### Intergovernmental Review of Federal Programs

This program is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR part 79.

The objective of the Executive order is to foster an intergovernmental partnership and to strengthen federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

Applicants must contact the appropriate State Single Point of Contact to find out about, and to comply with, the State's process under Executive Order 12372. Applicants proposing to perform activities in more than one State should immediately contact the Single Point of Contact for each of those States and follow the procedure established in each State under the Executive order. If you want to know the name and address of any State Single Point of Contact, see the list published in the Federal Register on September 15, 1989, pages 38342-38343.

In States that have not established a process or chosen a program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following

address: The Secretary, E.O. 12372—CFDA #84.213, U.S. Department of Education, Room 4161, 400 Maryland Avenue, SW., Washington, DC 20202-0125.

Proof of mailing will be determined on the same basis as applications (see 34 CFR 75.102). Recommendations or comments may be hand-delivered until 4:30 p.m. (Washington, DC time) on the date indicated in this notice.

Please Note that this address is not the same address as the one to which the applicant submits its completed application. Do not send application to the above address.

#### Instructions for Transmittal of Applications

(a) If an applicant wants to apply for a grant, the applicant shall—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA #84.213), Washington, DC 20202-4725.

or

(2) Hand deliver the original and two copies of the application by 4:30 p.m. (Washington, DC time) on the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA #84.213), Room #3633, Regional Office Building #3, 7th and D Streets, SW., Washington, DC.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service Postmark.

(2) A legibly mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

**Notes:** (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) The Application Control Center will mail a Grant Application Receipt Acknowledgment to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the date of mailing the application the applicant should call the U.S. Department of Education Application Control Center at (202) 732-2495.



(3) The applicant *must* indicate on the envelope and—if not provided by the Department—in Item 10 of the Application for Federal Assistance (Standard Form 424) the CFDA number—and letter, if any—of the competition under which the application is being submitted.

#### Application Instructions and Forms

The appendix to this application is divided into three parts plus a statement regarding estimated public reporting burden and various assurances and certifications. These parts and additional materials are organized in the same manner that the submitted application should be organized. The parts and additional materials are as follows:

Part I: Application for Federal Assistance (Standard Form 424 (Rev. 4-88)) and instructions.

Part II: Budget Information—Non-Construction Programs (Standard Form 424a) and instructions.

PART III: Application Narrative.

#### Additional Materials:

Estimated Public Reporting Burden. Assurances—Non-Construction Programs (Standard Form 424B).

Certification regarding Debarment, Suspension, and Other Responsibility Matters: Primary Covered Transactions (ED Form GCS-008) and instructions.

Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED Form GCS-009) and instructions.

(Note: ED Form GCS-009 is intended for the use of grantees and should not be transmitted to the Department.)

Certification Regarding Drug-Free Workplace Requirements: Grantees Other than Individuals (ED 80-0004).

Certification Regarding Lobbying for Grants and Cooperative Agreements (ED 80-0008).

(Note: This form is required if requesting, making, or entering into a grant or cooperative agreement for more than \$100,000.)

Disclosure of Lobbying Activities (Standard Form LLL) (if applicable) and instructions; and Disclosure of Lobbying Activities Continuation Sheet (Standard Form LLL-A).

An applicant may submit information on a photostatic copy of the application and budget forms, the assurances, and the certifications. However, the application form, the assurances, and the certifications must each have an *original signature*. No grant may be awarded unless a completed application form has been received.

#### FOR FURTHER INFORMATION CONTACT:

Benjamin Rice, Compensatory Education Programs, U.S. Department of Education, 400 Maryland Avenue, SW., (Room 2017), Washington, DC 20202-6132. Phone (202) 732-4692.

Program Authority: 20 U.S.C. 2741-2749.

Dated: January 18, 1990.

Daniel F. Bonner,

Acting Assistant Secretary for Elementary and Secondary Education.

BILLING CODE 4000-01-M



OMB Approval No. 0348-0043

**APPLICATION FOR  
FEDERAL ASSISTANCE**

<b>1. TYPE OF SUBMISSION:</b> Application <input type="checkbox"/> Construction <input type="checkbox"/> Construction <input checked="" type="checkbox"/> Non-Construction <input type="checkbox"/> Non-Construction		<b>2. DATE SUBMITTED</b>	Applicant Identifier																												
<b>3. DATE RECEIVED BY STATE</b>		State Application Identifier																													
<b>4. DATE RECEIVED BY FEDERAL AGENCY</b>		Federal Identifier																													
<b>5. APPLICANT INFORMATION</b>																															
Legal Name:		Organizational Unit:																													
Address (give city, county, state, and zip code):		Name and telephone number of the person to be contacted on matters involving this application (give area code)																													
<b>6. EMPLOYER IDENTIFICATION NUMBER (EIN):</b> <div style="border: 1px solid black; width: 150px; height: 20px; margin: 5px 0;"></div>		<b>7. TYPE OF APPLICANT: (enter appropriate letter in box)</b> <input type="checkbox"/> <table style="width: 100%; font-size: small;"> <tr> <td>A. State</td> <td>H. Independent School Dist.</td> </tr> <tr> <td>B. County</td> <td>I. State Controlled Institution of Higher Learning</td> </tr> <tr> <td>C. Municipal</td> <td>J. Private University</td> </tr> <tr> <td>D. Township</td> <td>K. Indian Tribe</td> </tr> <tr> <td>E. Interstate</td> <td>L. Individual</td> </tr> <tr> <td>F. Intermunicipal</td> <td>M. Profit Organization</td> </tr> <tr> <td>G. Special District</td> <td>N. Other (Specify): _____</td> </tr> </table>		A. State	H. Independent School Dist.	B. County	I. State Controlled Institution of Higher Learning	C. Municipal	J. Private University	D. Township	K. Indian Tribe	E. Interstate	L. Individual	F. Intermunicipal	M. Profit Organization	G. Special District	N. Other (Specify): _____														
A. State	H. Independent School Dist.																														
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E. Interstate	L. Individual																														
F. Intermunicipal	M. Profit Organization																														
G. Special District	N. Other (Specify): _____																														
<b>8. TYPE OF APPLICATION:</b> <input checked="" type="checkbox"/> New <input type="checkbox"/> Continuation <input type="checkbox"/> Revision If Revision, enter appropriate letter(s) in box(es): <input type="checkbox"/> <input type="checkbox"/> A. Increase Award    B. Decrease Award    C. Increase Duration D. Decrease Duration    Other (specify): _____		<b>9. NAME OF FEDERAL AGENCY:</b> U.S. Department of Education																													
<b>10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER:</b> <div style="display: flex; align-items: center; gap: 5px;"> <div style="border: 1px solid black; width: 20px; height: 20px; text-align: center;">8</div> <div style="border: 1px solid black; width: 20px; height: 20px; text-align: center;">4</div> <div style="border: 1px solid black; width: 20px; height: 20px; text-align: center;">2</div> <div style="border: 1px solid black; width: 20px; height: 20px; text-align: center;">1</div> <div style="border: 1px solid black; width: 20px; height: 20px; text-align: center;">3</div> </div>		<b>11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:</b>																													
<b>12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.):</b>		<b>13. PROPOSED PROJECT:</b> Start Date:      Ending Date:																													
<b>14. CONGRESSIONAL DISTRICTS OF:</b> a. Applicant      b. Project		<b>15. ESTIMATED FUNDING:</b> <table style="width: 100%; font-size: small;"> <tr> <td style="width: 30%;">a. Federal</td> <td style="width: 10%;">\$</td> <td style="width: 10%;"></td> <td style="width: 10%;">.00</td> </tr> <tr> <td>b. Applicant</td> <td>\$</td> <td></td> <td>.00</td> </tr> <tr> <td>c. State</td> <td>\$</td> <td></td> <td>.00</td> </tr> <tr> <td>d. Local</td> <td>\$</td> <td></td> <td>.00</td> </tr> <tr> <td>e. Other</td> <td>\$</td> <td></td> <td>.00</td> </tr> <tr> <td>f. Program income</td> <td>\$</td> <td></td> <td>.00</td> </tr> <tr> <td>g. TOTAL</td> <td>\$</td> <td></td> <td>.00</td> </tr> </table>		a. Federal	\$		.00	b. Applicant	\$		.00	c. State	\$		.00	d. Local	\$		.00	e. Other	\$		.00	f. Program income	\$		.00	g. TOTAL	\$		.00
a. Federal	\$		.00																												
b. Applicant	\$		.00																												
c. State	\$		.00																												
d. Local	\$		.00																												
e. Other	\$		.00																												
f. Program income	\$		.00																												
g. TOTAL	\$		.00																												
<b>16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?</b> a. YES, THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON: DATE: _____ b. NO. <input type="checkbox"/> PROGRAM IS NOT COVERED BY E.O. 12372 <input type="checkbox"/> OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW		<b>17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?</b> <input type="checkbox"/> Yes    If "Yes," attach an explanation. <input type="checkbox"/> No																													
<b>18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED</b>																															
a. Typed Name of Authorized Representative		b. Title	c. Telephone number																												
d. Signature of Authorized Representative		e. Date Signed																													

Previous Editions Not Usable

Standard Form 424 (REV 4-88)  
Prescribed by OMB Circular A-102

Authorized for Local Reproduction



## INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

- | Item: | Entry:   | Item: | Entry:   |
|-------|--|-------|--|
| 1.    | Self-explanatory.  | 12.   | List only the largest political entities affected (e.g., State, counties, cities).   |
| 2.    | Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).  | 13.   | Self-explanatory.  |
| 3.    | State use only (if applicable).  | 14.   | List the applicant's Congressional District and any District(s) affected by the program or project.  |
| 4.    | If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.  | 15.   | Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate <u>only</u> the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15. |
| 5.    | Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.   | 16.   | Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.  |
| 6.    | Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.  | 17.   | This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.  |
| 7.    | Enter the appropriate letter in the space provided.  | 18.   | To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)  |
| 8.    | Check appropriate box and enter appropriate letter(s) in the space(s) provided:<br>— "New" means a new assistance award.<br>— "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.<br>— "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation. |       |  |
| 9.    | Name of Federal agency from which assistance is being requested with this application.   |       |  |
| 10.   | Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.  |       |  |
| 11.   | Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.  |       |  |



OMB Approval No. 0348-0044

## BUDGET INFORMATION — Non-Construction Programs

## SECTION A — BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		\$	\$	\$	\$	\$
2.						
3.						
4.						
5. TOTALS		\$	\$	\$	\$	\$

## SECTION B — BUDGET CATEGORIES

Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY					Total (5)
	(1)	(2)	(3)	(4)		
a. Personnel	\$	\$	\$	\$		\$
b. Fringe Benefits						
c. Travel						
d. Equipment						
e. Supplies						
f. Contractual						
g. Construction						
h. Other						
i. Total Direct Charges (sum of 6a-6h)						
j. Indirect Charges	XXXXXXXXXXXX					
k. TOTALS (sum of 6i and 6j)	\$	\$	\$	\$	\$	\$
7. Program Income	\$	\$	\$	\$	\$	\$

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Standard Form 424A (4-88)  
Prescribed by OMB Circular A-102



## SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	\$	\$	\$	\$
9.				
10.				
11.				
12. TOTALS (sum of lines 8 and 11)	\$	\$	\$	\$

## SECTION D - FORECASTED CASH-NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	\$	\$	\$	\$	\$
14. Nonfederal					
15. TOTAL (sum of lines 13 and 14)	\$	\$	\$	\$	\$

## SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	\$	\$	\$	\$
17.				
18.				
19.				
20. TOTALS (sum of lines 16-19)	\$	\$	\$	\$

## SECTION F - OTHER BUDGET INFORMATION

(Attach additional Sheets if Necessary)

21. Direct Charges:	22. Indirect Charges: (Not allowable by Section 1054(c) of the Act)
23. Remarks (Provide information on a separate page to justify the costs in each budget category in Section B)	



## INSTRUCTIONS FOR THE SF-424A

**General Instructions**

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

**Section A. Budget Summary**  
**Lines 1-4, Columns (a) and (b)**

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in Column (a) and the respective catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

**Lines 1-4, Columns (c) through (g.)**

For *new applications*, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

**Lines 1-4, Columns (c) through (g.) (continued)**

For *continuing grant program applications*, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For *supplemental grants and changes* to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

**Line 5** — Show the totals for all columns used.

**Section B Budget Categories**

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1-4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

**Lines 6a-i** — Show the totals of Lines 6a to 6h in each column.

**Line 6j** — Not applicable to Even Start.

**Line 6k** — Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)-(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.



## INSTRUCTIONS FOR THE SF-424A (continued)

**Line 7** - Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

**Section C. Non-Federal Resources**

**Lines 8-11** - Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

**Column (a)** - Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

**Column (b)** - Enter the contribution to be made by the applicant.

**Column (c)** - Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

**Column (d)** - Enter the amount of cash and in-kind contributions to be made from all other sources.

**Column (e)** - Enter totals of Columns (b), (c), and (d).

**Line 12** - Enter the total for each of Columns (b)-(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

**Section D. Forecasted Cash Needs**

**Line 13** - Enter the amount of cash needed by quarter from the grantor agency during the first year.

**Line 14** - Enter the amount of cash from all other sources needed by quarter during the first year.

**Line 15** - Enter the totals of amounts on Lines 13 and 14.

**Section E. Budget Estimates of Federal Funds Needed for Balance of the Project**

**Lines 16 - 19** - Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

**Line 20** - Enter the total for each of the Columns (b)-(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

**Section F. Other Budget Information**

**Line 21** - Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

**Line 22** - Not applicable to Even Start.

**Line 23** - Provide any other explanations or comments deemed necessary.



**Supplementary Instructions for SF 424A—  
Budget Information****Section B—Budget Categories**

Enter the total fund (Federal) requirements by object class categories (6).

a. Personnel: Show the salary and wages to be paid to personnel employed in the project. Fees and expenses for consultants must be included on line f.

b. Fringe Benefits: Include contributions for Social Security, employee insurance, pension plans, etc. Leave blank if fringe benefits applicable to direct salaries and wages are treated as part of the indirect cost rate.

c. Travel: Indicate the amount requested for travel of employees only.

d. Equipment: Indicate the cost of nonexpendable personal property which has a useful life of more than two years and an acquisition cost of \$300 or more per unit.

e. Supplies: Include the cost of consumable supplies and materials to be used in the project. These should be items which cost less than \$300 per unit with a useful life of less than two years.

f. Contractual Services: Show the amount to be used for (1) procurement contracts (except those which belong on other lines such as supplies and equipment listed above); and (2) sub-grants or payments for consultants and secondary recipient organizations such as affiliates, cooperating institutions, delegate agencies, etc.

g. Construction: Not applicable.

h. Other: Indicate all direct costs not clearly covered by lines a-f above.

i. Total Direct Costs: Show total for lines a-h.

j. Funds may not be used for indirect costs. (Section 1054(c) of the Elementary and Secondary Education Act of 1965, as amended, 20 USC 2744(c)).

k. Total Project Costs: Total as in (i).

**Section C—Non-Federal Resources**

Non-Federal Resources: Enter the dollar amount of funds to be provided from other sources, e.g., other Federal programs, but not Title I of P.L. 100-297, State governments, local governments, private organizations, etc. If in-kind contributions enter the dollar value of donated services and goods to be used to support the program or project.

**Part III****Application Narrative**

Before preparing the application narrative, applicants should read carefully the Even

Start programmatic requirements in the Act, 20 U.S.C. 2741-48, and the applicable regulations (34 CFR Part 212). The narrative should encompass each function or activity for which funds are being requested and should be presented in the following sequence—

A. Begin with an abstract—a summary of the proposed project.

B. Describe a plan of operation containing the six items required in section 1056(c) of the Act, 20 U.S.C. 2746(c) as follows:

1. A description of the project goals and objectives. Express objectives in measurable terms against which the progress of the project can be evaluated.

2. A description of the activities and services that will be provided by the project. The seven program elements required by section 1054(b) of the Act, 20 U.S.C. 2744(b), must be included, as follows:

- The identification and recruitment of eligible children, including a description of the outreach methods to be used to identify families not currently associated with the schools of the LEA;

- Screening and preparation of parents and children for participation, including testing, referral to necessary counseling, and related services;

- Design of project and provision of support services (when unavailable from other sources) appropriate to the participants' work and other responsibilities, including—

- scheduling and location of services to allow joint participation by parents and children;

- child care for the period that parents are involved in the Even Start project; and

- transportation for the purpose of enabling parents and their children to participate in the Even Start project.

- The establishment of instructional programs that promote adult literacy, training parents to support the educational growth of their children, and preparation of children for success in regular school programs;

- Provision of special training to enable staff to develop the skills necessary to work with parents and young children in the full range of instructional services offered through Even Start (including child care staff in programs enrolling children of Even Start participants on a space available basis);

- Provision of and monitoring of integrated instructional services to participating parents and children through home-based programs; and

- Coordination of the Even Start project with programs assisted under Chapter 1 and any relevant programs under Chapter 2 of Title I of the Act, the Adult Education Act, the Education of the Handicapped Act, the Job Training Partnership Act, and with the Head Start program, volunteer literacy programs, and other relevant programs.

3. A description of the population to be served. (An estimate of the number of participants is to be provided in Part IV (B)).

4. If appropriate, a description of the collaborative efforts of the institutions of higher education, community-based organizations, the appropriate State educational agency, or other appropriate nonprofit organizations in carrying out the project for which assistance is sought;

5. A statement of the methods which will be used—

- to ensure that the project will serve those eligible participants most in need of the Even Start activities and services.

- to provide Even Start services to special populations, such as individuals with limited English proficiency and individuals with handicaps; and

- to encourage participants to remain in the project for a time sufficient to meet project goals; and

6. A description of the methods by which the applicant will coordinate the proposed Even Start project with programs under chapter 1 and chapter 2, where appropriate, of Title I of the Act, the Adult Education Act, the Job Training Partnership Act, and with Head Start programs, volunteer literacy programs and other relevant programs.

C. Complete the narrative by addressing each selection criterion in the order in which the criteria are listed in 34 CFR 212.21. Where appropriate the applicant should reference sections of the narrative and data sheets rather than repeat information here.

D. Include any other pertinent information that might assist the Secretary in reviewing the application.

E. Supply necessary data on the data sheets in Part IV.

It is recommended that the Application Narrative be limited to no more than 25 double-spaced, typed pages (on one side only). Supplemental documentation and data sheets, (D) and (E) above, should be appended to the narrative and need not be counted as part of the 25 pages.

BILLING CODE 4000-01-M



Part IV  
EVEN START PROGRAM  
Data Sheet

A. Information on additional funds

(1) Estimate the additional funds necessary to meet the requirements of section 1054(c) of the Act, which provides that the Federal share of the total cost of the project may be no more than 90% in the first year of the project, 80% in the second year, 70% in the third year, and 60% in the fourth and any subsequent year. Additional funds may be obtained from any source other than funds made available for programs under Title I of the Act.

<u>Year</u>	<u>Requirement</u>	<u>Amount</u>	<u>Source of Funds</u>
1	10%	\$ _____	_____
2	20%	\$ _____	_____
3	30%	\$ _____	_____
4	40%	\$ _____	_____

(2) If other Federal or State funds are listed as the source for additional funds, how will the applicant meet the requirements of section 1054(c) of the Act in the event that such Federal or State funds are not available?

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

B. Information on eligible participants.

1. Total number of eligible children and parents in applicant's Chapter 1 elementary attendance areas, not currently receiving family-centered services similar to those described in the Even Start statute, 20 U.S.C. 2741-48. (Refer to 212.21(b)(3) of the regulations for definition of "similar family-centered services"). . . . . \_\_\_\_\_

2. Number of eligible children and parents in (1) above to be served by this project. . . . . \_\_\_\_\_

3. Percentage of eligible children and parents described in (1) above to be served by this project  $[(2) \div (1)]$  . . . . . \_\_\_\_\_ %

Describe the procedures used to determine the number of eligible children and parents not currently served in (1) above:

\_\_\_\_\_

\_\_\_\_\_



Part IV cont...

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 Explain the rationale used to determine the number of children and parents to be served by this project in (2), above:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

C. Applicant represents ☐ urban ☐ rural area.

Check "urban" if the LEA is within a Standard Metropolitan Statistical Area (SMSA) as designated by the United States Department of Commerce, Bureau of Census. Check "rural" if the LEA is outside the boundary of a SMSA. If the LEA is within both designations, check the area in which the majority of participants reside.

#### Documentation

- D. Attach documentation to demonstrate that the applicant has the qualified personnel required--  
 (1) to develop, administer, and implement the project, and  
 (2) to provide special training necessary to prepare staff for the project.
- E. Attach documentation to demonstrate that the applicant has arranged for the services of an experienced evaluator to assist in the development of the applicant's evaluation plan and to coordinate that plan with the Secretary's independent evaluation.
- F. Applicant certifies that an open meeting was held on \_\_\_\_\_, 19\_\_\_\_ to provide the opportunity for the public to comment on the subject matter of this application.

Authorized LEA representative	Title	Date



**Estimated Public Reporting Burden**

Under terms of the Paperwork Reduction Act of 1980, as amended, and the regulations implementing that Act, the Department of Education invites comment on the public reporting burden in this collection of information. Public reporting burden for this collection of information is estimated to average 20 hours per response, including the time

for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. You may send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, Information

Management and Compliance Division, Washington, DC 20202-4651; and to the Office of Management and Budget, Paperwork Reduction Project 1810-0540 Washington, DC 20503.

(Information collection approved under OMB control number 1810-0540 Expiration date: June, 1991.)

BILLING CODE 4000-01-M



OMB Approval No. 0348-0040

**ASSURANCES — NON-CONSTRUCTION PROGRAMS**

**Note:** Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

Standard Form 424B (4-88)  
Prescribed by OMB Circular A-102

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10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE	
APPLICANT ORGANIZATION		DATE SUBMITTED



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**Certification Regarding  
Debarment, Suspension, and Other Responsibility Matters  
Primary Covered Transactions**

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This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, Section 85.510, Participants' responsibilities. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211). Copies of the regulations may be obtained by contacting the U.S. Department of Education, Grants and Contracts Service, 400 Maryland Avenue, S.W. (Room 3633 GSA Regional Office Building No. 3), Washington, D.C. 20202-4725, telephone (202) 732-2505.

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE)

- (1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
  - (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
  - (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
- (2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

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Organization Name

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PR/Award Number or Project Name

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Name and Title of Authorized Representative

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Signature

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Date



## Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.
4. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.



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**Certification Regarding  
Debarment, Suspension, Ineligibility and Voluntary Exclusion  
Lower Tier Covered Transactions**

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This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, Section 85.510, Participants' responsibilities. The regulations were published as Part VII of the May 26, 1988 *Federal Register* (pages 19160-19211). Copies of the regulations may be obtained by contacting the person to which this proposal is submitted.

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE)

- (1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

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Organization Name

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PR/Award Number or Project Name

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Name and Title of Authorized Representative

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Signature

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Date



## Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these Instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.



## Certification Regarding Drug-Free Workplace Requirements Grantees Other Than Individuals

This certification is required by the regulations implementing the Drug-Free Workplace Act of 1988, 34 CFR Part 85, Subpart F. The regulations, published in the January 31, 1989 *Federal Register*, require certification by grantees, prior to award, that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the agency determines to award the grant. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or governmentwide suspension or debarment (see 34 CFR Part 85, Sections 85.615 and 85.620).

The grantee certifies that it will provide a drug-free workplace by:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- (b) Establishing a drug-free awareness program to inform employees about—
  - (1) The dangers of drug abuse in the workplace;
  - (2) The grantee's policy of maintaining a drug-free workplace;
  - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
  - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
- (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—
  - (1) Abide by the terms of the statement; and
  - (2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;
- (e) Notifying the agency within ten days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction;
- (f) Taking one of the following actions, within 30 days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted—
  - (1) Taking appropriate personnel action against such an employee, up to and including termination; or
  - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
- (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

Organization Name

PR/Award Number or Project Name

Name and Title of Authorized Representative

Signature

Date



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### Certification Regarding Lobbying For Grants and Cooperative Agreements

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Submission of this certification is required by Section 1352, Title 31 of the U.S. Code and is a prerequisite for making or entering into a grant or cooperative agreement over \$100,000.

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, 'Disclosure Form to Report Lobbying,' in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact on which the Department of Education relied when it made or entered into this grant or cooperative agreement. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

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Organization Name

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PR/Award (or Application) Number  
or Project Name

---

Name and Title of Authorized Representative

---

Signature

---

Date



**DISCLOSURE OF LOBBYING ACTIVITIES**

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352  
(See reverse for public burden disclosure.)

Approved by OMB  
0348-0046

<b>1. Type of Federal Action:</b> <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	<b>2. Status of Federal Action:</b> <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	<b>3. Report Type:</b> <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change For Material Change Only: year _____ quarter _____ date of last report _____
<b>4. Name and Address of Reporting Entity:</b> <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known:  Congressional District, if known: _____		<b>5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:</b>  Congressional District, if known: _____
<b>6. Federal Department/Agency:</b>	<b>7. Federal Program Name/Description:</b>  CFDA Number, if applicable: _____	
<b>8. Federal Action Number, if known:</b>	<b>9. Award Amount, if known:</b> \$ _____	
<b>10. a. Name and Address of Lobbying Entity (if individual, last name, first name, MI):</b>  (attach Continuation Sheet(s) SF-LLL-A, if necessary)		<b>b. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI):</b>  (attach Continuation Sheet(s) SF-LLL-A, if necessary)
<b>11. Amount of Payment (check all that apply):</b> \$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned	<b>13. Type of Payment (check all that apply):</b> <input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other; specify: _____	
<b>12. Form of Payment (check all that apply):</b> <input type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind; specify: nature _____ value _____		
<b>14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:</b>  (attach Continuation Sheet(s) SF-LLL-A, if necessary)		
<b>15. Continuation Sheet(s) SF-LLL-A attached:</b> <input type="checkbox"/> Yes <input type="checkbox"/> No		
<b>16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.</b>		Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____
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**INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES**

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.
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7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.  
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.



**DISCLOSURE OF LOBBYING ACTIVITIES  
CONTINUATION SHEET**Approved by OMB  
0348-0046

Reporting Entity: \_\_\_\_\_

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THE COURSE OF LITERARY CRITICISM  
CONTINUATION SHEET

The course of literary criticism is a long and varied one, extending from the earliest times to the present day. It is a study of the ways in which we have come to understand and evaluate the works of literature. The course begins with the ancient Greeks, who first began to write about literature in a systematic way. The Romans followed them, and then the Middle Ages. The Renaissance brought a new emphasis on the individual, and the 18th century saw the rise of the novel. The 19th century was a time of great change, with the rise of the novel and the development of the critical methods of the 19th century. The 20th century has seen a great deal of new thought and writing about literature, and the course continues to this day.

The course is divided into several parts. The first part is a survey of the history of literary criticism, from the ancient Greeks to the present day. The second part is a study of the critical methods of the 19th century, and the third part is a study of the critical methods of the 20th century. The fourth part is a study of the critical methods of the 21st century, and the fifth part is a study of the critical methods of the 22nd century.

The course is designed to be a comprehensive study of the history and methods of literary criticism. It is a course that will give you a deep understanding of the ways in which we have come to understand and evaluate the works of literature. It is a course that will give you the tools you need to be a successful literary critic.

The course is a challenging one, but it is also a rewarding one. It is a course that will give you a deep understanding of the ways in which we have come to understand and evaluate the works of literature. It is a course that will give you the tools you need to be a successful literary critic.

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Federal Register

Vol. 55, No. 16

Wednesday, January 24, 1990

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